

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
BRIEF &  
APPENDIX**



75-1263

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT

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p15

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NO. 75-1263

UNITED STATES OF AMERICA

VS.

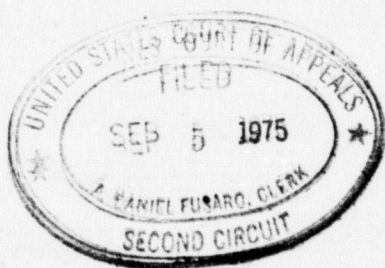
PASQUALE DAVERSA

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ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF CONNECTICUT

---

BRIEF AND APPENDIX FOR THE APPELLANT-DEFENDANT



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To be argued by:

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PAGINATION AS IN ORIGINAL COPY

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IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT

---

NO. 75-1263

UNITED STATES OF AMERICA

VS.

PASQUALE DAVERSA

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
COURT FOR THE DISTRICT OF CONNECTICUT  
BRIEF AND APPENDIX FOR THE APPELLANT-DEFENDANT

---

STATEMENT OF FACTS

On September 25, 1973, D. HANLON, of Lancaster, Pennsylvania, previously of Waterbury, Connecticut, informed the police in Lower Paxton, Pennsylvania that one D.W. Gordon, a.k.a. David A. Fenley, was proceeding from Pennsylvania to Waterbury, Connecticut, via the New Jersey and Pennsylvania Turnpikes in a 1965 Black Cadillac with a white stripe on the top. In the trunk of the vehicle were some stolen firearms. The auto description, the Pennsylvania license number, and a description of D.W. Hanlon were relayed to the Connecticut State Police and Federal Firearms agents.

Based upon this information, Federal Agents Nadel and Sushman, together with local police from Naugatuck and Waterbury, Connecticut stationed themselves along Route 8 between Naugatuck and Waterbury where they awaited the arrival of the described vehicle.

At about 12:45 P.M. on September 25, two Connecticut State Troopers intercepted the described Cadillac just east of the Norwalk Toll station on I-95. In a search of the vehicle a State Trooper found a loaded .22 pistol under the front passenger seat. When asked, the operator refused to open the trunk of the car. Using the keys from the ignition, a trooper opened the car trunk and found a number of firearms, both rifles and handguns. It was discovered that Gordon was a fugitive from justice in New Hampshire. He was arrested for a series of state violations as well as for a violation of the Federal Firearms Act.

Agents Nadel and Sushman arrived at the Westport, Connecticut State Police Troop about 3:40 P.M. After being advised of his rights by the Federal Officers, Gordon gave a written statement to the effect that he had been buying guns in Pennsylvania for about four weeks. Gordon further stated that about three weeks prior to his arrest he had brought about eight guns to Waterbury and sold them to a man known to Gordon as the Beast. He described the buyer as weighing between 140 and 150 pounds, olive complected, with silvery grey hair, and who was also called Patsy. This sale

by Gordon netted him \$400.00. About two weeks later, Gordon said, he returned to Waterbury with seven more guns that he sold to the same individual for \$400.00. He said that he had sold another gun to an individual in Torrington for \$125.00 on this second trip.

Gordon was then shown a series of 17 photographs by the federal agents; and, he selected a photograph of the defendant as the person to whom he had previously made two separate sales of firearms for a total of \$800.00.

When interviewed by the Pennsylvania and Connecticut Police, on September 26, Gordon admitted to breaking into the home of one Douglas Brookmyer of Gap, Pennsylvania on two occasions and to receiving guns stolen from the home of William Smith. Some of the guns taken from these two places were in the trunk of his car when he was arrested.

On October 2, 1974, a Federal Agent and a State Trooper conducted a tape recorded interview with Gordon. At this time, Gordon said that he had made two prior trips to Connecticut with stolen firearms; that he had sold some to a man from Thomaston; that he had sold some others to a man known to him as the Beast; that he had been put in contact with these two men by one Sheila Tracy; that the Beast had paid him \$300. to \$400. for the firearms; that the Beast would buy all the guns Gordon could bring to him except "pumps"; and, that the firearms in his possession on September 25 were intended for sale to the Beast.

On October 3, 1974, using directions provided by Gordon, State and Federal officers went to the home of Thomas Curulla of Thomaston, Connecticut. Curulla gave a statement that about two weeks prior to the interview on October 3, he had received a phone call from Sheila Tracy asking whether he was interested in buying some guns. He indicated that he was interested, and he subsequently purchased a rifle and a shotgun from two men. These weapons were marked and confiscated by the authorities.

On October 4, Agents Nadel and Sushman interviewed one David Hanlon, who in a signed statement revealed that he had accompanied Gordon to Waterbury on July 21, 1973. On July 22, they went to the home of Sheila Tracy. Gordon said that he heard Sheila Tracy make some telephone calls for buyers of guns and clocks. As a result of these calls Hanlon said that Gordon sold two guns to a man in Thomaston; and that a man about 45 years old had come to Sheila's home and had purchased some guns from Gordon.

On October 10, Hanlon stated that Gordon had made three trips with stolen guns to Connecticut. On the first trip, Gordon sold guns to one Jimmy Palumbo, on the second trip he sold the guns recited in the October 3 statement, and, on the last trip there was an arrest.

On January 16, 1974, Federal agents interviewed Sheila Tracy. In a signed statement Sheila Tracy said that Gordon and Hanlon had come to her house in Waterbury in September, 1973, that Gordon

had some stuff to get rid of; that she knew that the stuff was hot; that she called the defendant, whom she had known for 10 years; that she told the defendant that the stuff was hot; that the defendant came to her house in Waterbury and met with Gordon and Hanlon on the street in front of her house; and, after he left, she did call Curulla in Thomaston. The seventeen photographs were displayed to her and she identified the defendant.

On February 6, 1974, Federal agents conducted an interview with Gordon at the New Hampshire Penitentiary in Concord, New Hampshire. Gordon indicated that the statement that he had given on September 25 had not been entirely correct. He stated that the transaction at Sheila's home took place on his first trip from Pennsylvania to Waterbury. He further stated that the guns found in his car at the time of his arrest were intended to be sold to the Beast; and, that the guns earlier sold to the Beast had come from burglaries in Pennsylvania.

The defendant was subsequently indicted on two occasions for violations of the Federal Firearms Act and for Conspiracy. At the trial, Gordon, Hanlon, and Tracy each testified. The testimony of all three differed from each other's and from the various statements they had given to Federal agents and to the Grand Jury. Each of the three failed to give a consistent account of the events. The defense called two witnesses: an uncle of Sheila Tracy, and

the defendant. The defendant testified that he had gone to the Tracy home to buy antiques. In addition, it was stipulated that the defendant had been convicted of a felony in the Superior Court in Connecticut in September of 1971. The Charge was receiving stolen goods - guns.

## STATUTES INVOLVED

### Title 18 U.S.C. 1202 (a) (1)

(a) Any person who -

(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

and who receives, possesses, or transports in commerce or affecting commerce, after the date of enactment of this Act, any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

### Title 18 U.S.C. 922 (i)

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

### Title 18 U.S.C. 2 (a)

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

### Title 18 U.S.C. 371

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

### ISSUE

DOES THE INDICTMENT HEREIN, REFLECTING THE LANGUAGE OF SECTION 1202(a) (1) OF TITLE 18 U.S.C. APPENDIX, UNCONSTITUTIONALLY INFRINGE UPON THIS DEFENDANT'S FIFTH AMENDMENT RIGHT TO REMAIN SILENT AND TO DECLINE TO TESTIFY?

It has long been the common law rule that evidence of the commission or other crimes and offenses is both incompetent and inadmissible for the purpose of showing the commission of a particular crime, even though the evidence concerns a crime of the same nature. FAUST V. UNITED STATES, 163 U.S. 452. STATE V. HARRIS, 147 Conn. 589.

The purpose of this rule is to forbid and prevent the conviction of an accused for one crime by use of evidence that he has committed other crimes. There exists, by virtue of the language of 18 U.S.C. Appendix §1202(a) (1) as used in the first indictment herein an element of this offense that conflicts with this standard. Cf. Rule 403 and 404(b) FEDERAL RULES OF EVIDENCE, RULE 311 MODEL CODE OF EVIDENCE, American Law Institute. Nonetheless, it is difficult to imagine that no such derogatory reaction will occur in the mind of the jury.

The record does not show precisely how these two cases were consolidated. The docket entries merely show the two cases were to be tried together (1a, 5a). It is also a fact that no motion for relief from prejudicial joinder, in the first indictment, was

made under Rule 14 FEDERAL RULES OF CRIMINAL PROCEDURE: and, the Defendant must face the argument that his claim on appeal has been waived. The basic claim here, however, is that this is a question of constitutional dimension; and, it is as much the responsibility of the Prosecution and the Court to see that the right is protected as it is the responsibility of the Defendant.

In every case tried to a jury, there is a judgment to be exercised by an accused. Does he elect to testify on his own behalf, or does he elect to remain silent?

Clearly, where he elects to remain silent the jury is to be instructed that they shall draw no inference from that fact, unfavorable to the defendant. Reason and experience, however, give us a basis for making the selection from the two alternatives by any defendant. He may elect to decline to testify simply because his credibility as to truthful witness, measured against the standard applied to all other witnesses, will find him to be lacking. He may wish to keep from the jury factors not produced on the prosecution's case that will injure his defense. He may wish to keep from the jury the fact that he has a prior felony conviction. In this case, the prior felony conviction was for receiving stolen guns. Certainly the similarity of that charge with the instant charge would have overcome any objection to the use of that fact on cross-examination to impeach his credibility.

The language of Count 1 of the first indictment comports with the statutory language of Section 1202(a) (1) of Title 18 Appendix. It alleges that the defendant is a convicted felon.

The jury was advised, when the Indictment was read at the outset of the trial, that this defendant was a convicted felon. During the trial, the fact that the Defendant had been convicted of a felon was stipulated to by the Defense. The proof of a felony conviction is quite brief in any trial circumstance. The harm, however, is that the jury is told at the outset that they are considering the activities of a convicted felon. Then during the trial they hear the evidence. Finally, the judge charges them, in case they forget, that they can only convict felons of Count 1 and this accused is a felon.

The Appellant suggests that there exists a real probability of prejudice to any accused when, as in this case, he is described in the charge as a felon. Clearly, had the cases been severed, the jury could not have heard the evidence in the conspiracy count since that was a separate indictment that was consolidated for trial. Nonetheless, the jury heard that the defendant was, among other things, a convicted felon.

Appellant suggests that the indictment virtually required the defendant to testify in this case. The fact is that it is an invidious method of compelling a convicted felon to surrender his constitutionally protected right. It is the invidious compulsion that has long been condemned in Federal Courts.

Appellant wishes to make it clear that there is no claim being made that Congress lacks the authority to make it a crime for a convicted felon to possess a firearm. Clearly, Congress is so authorized under the commerce clause. UNITED STATES V. DAVIS, 314 F. Supp. 1161. However, having decided to establish a crime based in part upon the existence of a felony conviction, it is the duty of the Congress to adopt a procedure whereby the information does not come to the jury improperly; and, it is the duty of the Court to protect the Defendant from the prejudice that will otherwise arise.

Appellant's argument is predicated upon a claim that the pleading creates an involuntary surrender of a protected right. For example, should a defendant be charged under the Kidnapping Act, 18, U.S.C. §1201 and should he elect to be tried by a jury, he risks death, while if tried to the Court, he cannot receive the death penalty has the inevitable effect to discourage the Fifth Amendment right not to plead guilty, UNITED STATES V. JACKSON 390 U.S. 570 at 581 and to demand the Sixth Amendment right to a jury trial. IBID. The failure to ask an illiterate and ignorant youth whether they had or could employ counsel was an impermissible invasion POWELL V. ALABAMA, 287 U.S. 45; did the behavior of State Law Enforcement officials overbear the Defendant's will to resist as a part of the definition of due process. Cf. ROGERS V. RICHMOND, 365 U.S. 545; or the totality of circumstances arising

out of detention incommunicado and pre-trial enactment and confession, denial of access to counsel violate due process. DARWIN V. CONNECTICUT, 391 U.S. 346 (1967). SPANO V. NEW YORK 360 U.S. 315, CULOMBE v. CONNECTICUT, 367 U.S. 568.

None of these cases involve direct force, but intimidation literally results from the circumstance. In the instant case, the intimidation results from the express language of the indictment in One Count and the resultant added charges. That prejudice is real.

There could be two alternative methods of proceeding. (a) A jury trial on the issue of the transportation of stolen weapons and (b) a separate trial on the issue of the prior conviction. The second charge would follow conviction on the first and merge. Admittedly, it is cumbersome but that may be a necessary ingredient to protecting the defendant from prejudice by disclosing his criminal record.

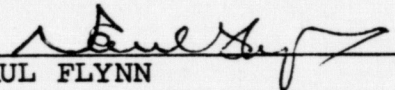
What are the reasons for declining to take the witness stand by any accused. First, that he has a criminal record that he feels will prejudice his credibility and infect his trial; second, that he may have a history of similar activity, (c) he may have made some statement against interest. In this case, the sole ground was eviscerated by the language of the Indictment itself, the prejudice was real, and the convictions should be reversed because

there is no way to extricate the prejudice from the trial.

CONCLUSION

For the reason presented, the Defendant respectfully suggests that the conviction herein be reversed and that the matter be remanded for a new trial.

This is to certify that 3 copies of the foregoing Brief and Appendix were hand-delivered to the United States Attorney, 141 Church Street, New Haven, on September 5, 1975.

  
\_\_\_\_\_  
W. PAUL FLYNN

Docket Entries

#N-74-63 18 U.S.C. (1202(a) (1); 922(i) & 2(a); 371

1974

6/20

The Grand Jury at New Haven returned a True Bill of Indictment charging violation of Title 18 U.S.C. App. 1202 (a) (1), Title 18 U.S.C. 922 (i) and 2(a), and 371 - 3 counts - having been convicted of a felony, did knowingly receive in commerce more than one firearm; did transport and ship in interstate commerce stolen firearms and ammunition; and conspiring with another to ship in interstate commerce stolen firearms and ammunition. Summons to issue for July 1, 1974 in New Haven. Newman, J.

7/1

PLEA: Plea of not guilty entered to Counts 1,2, and 3. Case continued on same bond for trial. 3 weeks to file motions. Appearance of David W. Goldman, Esq. entered for Defendant. Newman, J.

9/16

Count 3 is orally dismissed in open court at proceedings of Crim. No. N-74-81 Newman, J.

1975

1/27

Notice of Readiness, filed by Government.

2/18

Motion to Dismiss Indictment, filed by defendant.

2/26

Memorandum in Support of Motion to Dismiss Indictment, filed by defendant.

2/27

On JON's Jury Assignment List, Companion case to N-74-81, to be tried together. Government's response to Motion to Dismiss, filed. Government to notify Court in 2 weeks re: trial. Newman, J.

4/3

Ruling on Defendant's Motion to Dismiss, filed and entered. Motions to dismiss the indictments in Crim. Nos. N-74-63 and N-74-81 are accordingly denied. Newman, J. Copies mailed to Counsel of record. Copy handed to U.S. Attorney.

4/10

Motion to Suppress Photographic Examination, filed by defendant.

4/11

On JON's Jury Assignment List, Marked ready #1, Jury impanelled. Evidence to commence Tuesday, April 15, 1975. Newman, J.

1975

4/11

JURY TRIAL COMMENCES: Requested Questions Voir Dire Examination and Motion to Order Government to transcribe and prepare Stenographer's Minutes of Grand Jury Proceedings other than deliberations, filed by defendant. Motion granted. Counsel agree on selecting Jury of 12 with 1 alternate. 40 jurors respond to roll call. Court describes case on trial. 12 jurors and 1 alternate impanelled and sworn. Jury remains for impanelling in next ready case. Mr. Robert Hayden, juror #10 excused for cause after the jury was impanelled. Evidence to commence on April 15, 1975 at 10:00 A.M. Newman, J.

4/15

Hearing held on Defendant's Motion to Suppress Photographic Examination. Two government witnesses sworn and testified. Govt. Ex. #1, marked for ID. Govt Ex. #1, made full exhibit for suppression hearing only. Court Ex. 3500-3506, marked for ID. Govt. advises photos (Govt. Ex. #1) will not be introduced in trial. Court advises that there is no necessity to rule on Motion. Oral Motion to Suppress testimony of David Gordon, denied for reasons stated in open Court. Counsel agree to switch the order of witnesses and submission of weapons into evidence after objection by defendant. 11:25 A.M. Recess.

4/15

JURY TRIAL COMMENCES: 11:46 A.M. Jury enters Courtroom, 12 jurors present. 4 Govt. witnesses, sworn and testified. Court Exhibits #3507, 3508 and 3509, marked for ID. Govt. Exhibits 2, 3, & 4 marked for ID. Govt. Exs. 3 & 4 made full exhibits. In absence of jury Govt. request to place witness on stand out of order, Counsel agrees. Jury re-enters Courtroom. Two Govt. witnesses sworn and testified. Court exhibits 3510 and 3511, marked for I.D. Govt. Exs. #5, 6 & 7, marked for ID. Govt. Ex. #5 made full exhibit. Jury excused at 5:01 P.M. Newman, J.

4/16

JURY TRIAL CONTINUES: In absence of jury, Atty. Goldman advises Court he would like to make an offer of proof in re: testimony of Sheila Tracy, and he would be willing to take stand. Court discusses problem with Atty. Goldman and advises that if he were to take the stand, Assoc. Counsel would have to try the balance of the case. Atty. Goldman advises he will not testify. 10:52 A.M. Jury enters Courtroom. 12 jurors present. Two govt. witnesses sworn and testified. Court Ex. 3512, marked for ID. Govt. Ex. #8 marked for ID. Govt. Ex. #8, made full exhibit. Deft. Ex. A, filed. Counsel stipulate 1) as to testimony of Thomas Carulla, 2) previous felony conviction of defendant (Daversa) and 3) Thomas Carulla was

not arrested. Govt. rests at 12:05 P.M. In absence of Jury deft. moves for Judgment of Acquittal, motion denied for reasons stated in open Court. Govt's Request to charge, filed. Deft's Request to Charge, filed. Jury re-enters Courtroom. Two Deft. witnesses sworn and testified. Deft. rests at 2:41 P.M. In absence of jury, Govt's Supplement request to charge, filed. Counsel and Court discuss the charge to jury. Deft's Motion for Judgment of Acquittal under Rule 29 of F.R.Cr.P. filed. Deft. orally renews Motion for Acquittal. Counsel agree to have clean Indictment drawn up with no nbr., consolidating charges on one document. Jury re-enters Courtroom. Govt. opens 3:05 P.M. - 3:30 P.M., Counsel for deft. 3:20 P.M. - 3:44 P.M., Govt. closes 3:45 P.M. - 3:51 P.M. Court's charge 3:52 P.M. - 4:24 P.M. 12 jurors retire to jury room at 4:24 P.M. Govt. takes exception to charge, Deft. takes no exception but requests further instruction as to time element and request deliberations begin on April 17, 1975. No further charge to be given. Clean Indictment handed to Court by Govt. 4:31 P.M. By agreement of Counsel all full deft. and Govt. exhibits together with Indictment are delivered to jury in jury room by Clerk and deliberations begins 5:07 P.M. Note from Jury. 5:08 Jury enters Courtroom Court Ex. #1, marked for ID. All full exhibits and Indictment returned to Clerk. 5:11 P.M. Jury excused until 10:00 A.M. on April 17, to continue deliberation in Room 218. 5:12 Court adjourned. Newman, J.

- 4/17 JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to Jury room. Indictment and all full exhibits delivered by U.S. Marshal to jurors and deliberations resume. 2:32 P.M. jury returns to Courtroom with following verdicts. Deft. Daversa, guilty on each of Cts. 1 and 2 in N-74-63 and guilty on Ct. 1 of N-74-81. Jury is polled at the request of deft. and all answer in the affirmative. 2:38 P.M. Jury excused subject to call.
- 4/18 Request for Jury Instructions, filed by government.
- 4/23 Motion for Judgment of Acquittal Notwithstanding the Verdict or in the Alternative for a New Trial, filed by defendant.
- 5/12 Hearing held on Deft.'s Motion for Judgment of Acquittal Notwithstanding the verdict, or in the Alternative for a New Trial. Motion denied for reasons stated in open Court. Newman, J.
- 5/12 DISPOSITION: Defendant is committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of one year on Count 2 in Crim. No. N-74-63 and one year on Count one in Crim. No. N-74-81,

1975

5/12

to run concurrent with each other. Imposition of sentence suspended on Count one in Criminal No. N.-74-63 and the defendant is placed on probation for a period of 5 years, to commence after discharge from incarceration on Count one in Crim. N-74-81 and Count 2 in criminal N-74-63. Newman, J.

5/14

Motion for Judgment of Acquittal Notwithstanding the Verdict or in the Alternative for a New Trial endorsed as follows: "Motion Denied." Newman, J.

5/16

Notice of Appeal, filed by defendant. Copies mailed to counsel and one certified copy, together with certified copy of docket sheet, mailed to U.S. Court of Appeals.

5/16

Appearance of W. Paul Flynn, Esq., entered for defendant.

5/30

Copy of Order from U.S. Court of Appeals ordering brief and appendix of appellant be filed on or before Aug. 14, 1975; if same is not filed as directed appeal shall be dismissed. U.S. to file its brief on or before Sept. 15, 1975. argument of the appeal to be heard during the week of September 22, 1975. Fusaro, C.

Docket Entries  
#N-74-81      18 U.S.C. 922(i) and 371

1974

7/25

The Grand Jury at New Haven returned a True Bill of Indictment charging violation of Title 18, U.S.C., 922 (i) & 371 - one count - did conspire with another to transport in interstate commerce stolen firearms, knowing and having reasonable cause to believe said firearms to be stolen. Summons to issue. Newman, J.

9/16

PLEA: Plea of not guilty entered to Count 1. Case continued on same bond for trial. Count 3 in Crim. Case No. N-74-63 is orally dismissed. Newman, J.

1975

1/27

Notice of Readiness, filed by Government.

2/25

Motion to Dismiss Indictment, filed by defendant.

2/26

Memorandum in Support of Motion to Dismiss Indictment, filed by defendant.

2/27

On JON's Jury Assignment List, companion case to N-74-63, to be tried together. Government's response to Motion to Dismiss, filed. Gov't. to notify Court in 2 weeks re: trial. Newman, J.

4/3

Ruling on Defendant's Motion to Dismiss, filed and entered. Motions to dismiss indictment in Crim. Nos. N-74-63 and N-74-81 are accordingly denied. Newman, J.

4/10

Motion to Suppress Photographic Identification, filed by defendant.

4/14

On JON's Jury Assignment List, marked ready #1, Jury impanelled. Evidence to commence on Tuesday, April 15, 1975. Newman, J.

4/14

JURY TRIAL COMMENCES: Requested Questions for Voir Dire Examination and Motion to Order Government to transcribe and prepare Stenographer's Minutes of Grand Jury Proceedings other than deliberations, filed by defendant. Motion granted. Counsel agree on selecting Jury of 12 with 1 alternate. 40 jurors respond to roll call. Court describes case on trial. 12 jurors and 1 alternate impanelled and sworn. Jury remains for impanelling in next ready case. Mr. Robert Hayden, juror #10 excused for cause after jury was impanelled. Evidence to commence on April 15, 1975 at 10:00 A.M.

1975

4/15

Hearing held on Defendant's Motion to Suppress Photographic Identification. Two government witnesses sworn and testified. Govt. Ex. #1, marked for ID. Govt. Ex. #1, made full exhibit for suppression hearing only. Court Ex. 3500-3506, marked for ID. Govt. advises photos (Govt. Ex. #1) will not be introduced in trial. Court advises that there is no necessity to rule on Motion. Oral Motion to Suppress testimony of David Gordon, denied for reasons stated in open Court. Counsel agree to switch the order of witnesses and submission of weapons into evidence after objection by defendant. 11:25 A.M. Recess. Newman, J.

4/15

JURY TRIAL CONTINUES: 11:46 A.M. Jury enters Courtroom, 12 jurors present. 4 Govt. witnesses, sworn and testified. Court Exhibits #3507, 3508, and 3509, marked for ID. Govt. Exhibits 2, 3, & 4 marked for ID. Govt. Exs. #3 & #4 made full exhibits. In absence of jury Govt. request to place witness on stand out of order, Counsel agree. Jury re-enters Courtroom. Two Govt. witnesses sworn and testified. Court exhibits 3510 and 3511, marked for ID. Govt. Exs. #5, 6 & 7 marked for I.D. Govt. Ex. #5, made full exhibit. Jury excused at 5:00 P.M. until 10:00 A.M. April 16, 1975. Court adjourned at 5:01 P.M. Newman, J.

4/16

JURY TRIAL CONTINUES: In absence of jury, Atty. Goldman advises Court he would like to make an offer of proof in re: testimony of Sheila Tracy, and he would be willing to take stand. Court discusses problem with Atty. Goldman and advises that if he were to take the stand assoc. counsel would have to try the balance of the case. Atty. Goldman advises he will not testify. 10:52 A.M. Jury enters Courtroom. 12 jurors present. Two govt. witnesses sworn and testified. Court Ex. #3512, marked for ID. Govt. Ex. #8 marked for I.D. Govt. Ex. #8, made full exhibit. Deft. Ex. A filed. Counsel stipulate 1) as to testimony of Thomas Carulla, 2) previous felony conviction of deft. (Daversa) and 3) Thomas Carulla was not arrested. Govt. rests at 12:05 P.M. In absence of the jury deft. moves for Judgment of Acquittal, motion denied for reasons stated in open Court. Govt. Request to charge, filed. Deft's request to Charge, filed. Jury re-enters Courtroom. Two deft. witnesses sworn and testified. Deft. rests at 2:41 P.M. In absence of jury, Govt's Supplement Request to charge, filed. Counsel and Court discuss the charge to jury. Deft's. Motion for Judgment of Acquittal under Rule 29 of F.R. Cr. P., filed. Deft. orally renews Motion for Acquittal. Counsel agree to have clean Indictment drawn up with no nbr. consolidating charges on one document. Jury re-enters Courtroom. Govt. opens 3:05 P.M. - 3:30 P.M., Counsel for deft. 3:30 P.M. - 3:44 P.M., Govt. closes 3:45 P.M.-

-6A

1975

4/16

3:51 P.M. Court's charge 3:52 P.M. - 4:24 P.M. 12 jurors retire to jury room at 4:24 P.M. Govt. takes exception to charge. Deft. takes no exception but requests further instruction as to time element and request deliberations begin on April 17, 1975. No further charge to be given. Clean Indictment handed to Court by Govt. 4:31 P.M. By agreement of Counsel all full deft. and Govt. exhibits together with indictment are delivered to jury in jury room by Clerk and deliberations begin. 5:07 Note from Jury. 5:08 P.M. Jury enters Courtroom, Court Ex. #1, marked for I.D. All full exhibits and Indictment returned to Clerk. 5:11 P.M. Jury excused until 10:00 A.M. on April 17, to continue deliberations in Room 218. 5:12 P.M. Court adjourned. Newman, J.

4/17

JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to Jury room. Indictment and all full exhibits delivered by U.S. Marshal to jurors and deliberations resume. 2:32 P.M. jury returns to Courtroom with following verdicts Deft. Daversa, guilty on each of Cts. 1 and 2 in N-74-63 and guilty on Ct. 1 of N-74-81. Jury is polled at request of deft. and all answer in the affirmative.

4/23

Motion for Judgment of Acquittal Notwithstanding the Verdict or in the Alternative for a New Trial, filed by defendant.

5/12

Hearing held on Deft's Motion for Judgment of Acquittal Notwithstanding the verdict, or, in the Alternative for a New Trial. Motion denied for reasons stated in open Court. Newman, J.

5/12

DISPOSITION: Defendant is committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of one year on Count 2 in Crim. No. N-74-63 and one year on Count one in Criminal No. N-74-81, to run concurrent with each other. Imposition of sentence suspended on Count one in Criminal No. N-74-63 and the deft. is placed on probation for a period of 5 years to commence after discharged from incarceration on Count one in Crim. N-74-81 and Count 2 in Criminal No. N-74-63. Newman, J.

5/14

Motion for Judgment of Acquittal Notwithstanding the Verdict or in the Alternative for a New Trial endorsed as follows: Motion Denied. Newman, J.

5/16

Notice of Appeal, filed by defendant. Copies mailed to counsel. One certified copy of same, together with certified copy of docket sheet, mailed to U.S. Court of Appeals.

5/16

Appearance of W. Paul Flynn, Esq., entered for defendant.

5/30

Copy of Order from U.S. Court of Appeals ordering brief and appendix of appellant be filed on or before Aug. 14, 1975; if same is not filed as directed appeal shall be dismissed. U.S. to file its brief on or before Sept. 15, 1975. Argument of the appeal to be heard during the week of Sept. 22, 1975. Fusaro, C.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA )

V. )

PASQUALE DAVERSA )

INDICTMENT N-74-63

COUNT ONE

On or about September 21, 1973, at Waterbury in the District of Connecticut, PASQUALE DAVERSA, the defendant herein, having been convicted on June 16, 1971, in the Superior Court at Waterbury, for the County of New Haven, Connecticut, of a felony, to wit: receiving stolen goods in violation of Connecticut General Statutes §53-65, did knowingly receive in commerce more than one firearm, in violation of Title 18, United States Code Appendix, Section 1202 (a) (1).

COUNT TWO

On or about September 25, 1973, in the District of Connecticut, PASQUALE DAVERSA knowingly did transport and ship in interstate commerce from Pennsylvania to Connecticut stolen firearms and ammunition, knowing and having reasonable cause to believe the firearms and ammunition were stolen, in violation of Title 18, United States Code, Sections 922 (i) and 2 (a).

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA )

V. )

PASQUALE DAVERSA )

Indictment N-74-81

ONE COUNT

From on or about September 21, 1973, to September 25, 1973, in the District of Connecticut, PASQUALE DAVERSA, the defendant herein, and DAVID GORDON (named as a co-conspirator but not as a defendant herein), wilfully and knowingly did combine, conspire, confederate and agree to commit the following offense against the United States:

1. To wilfully and knowingly transport in interstate commerce from Pennsylvania to Connecticut stolen firearms, knowing and having reasonable cause to believe said firearms to be stolen, in violation of Title 18, United States Code, Section 922 (i), all in violation of Title 18, United States Code, Section 371.

OVERT ACT

In furtherance of the conspiracy and to effect the objects thereof, the unindicted co-conspirator DAVID GORDON performed the following overt act:

1. On or about September 25, 1973, DAVID GORDON drove from Pennsylvania to Connecticut with a quantity of stolen firearms in his automobile.

MOTION OF DEFENDANT PASQUALE DAVERSA UNDER RULE 29 OF THE  
FEDERAL RULES OF CRIMINAL PROCEDURE FOR A JUDGMENT OF ACQUITTAL

The defendant, Pasquale Daversa hereby moves that the Court enter a judgment of acquittal in his favor on each of the counts of both indictments in these cases because the evidence is insufficient to sustain a conviction of any of the offenses charged therein.

THE DEFENDANT

BY \_\_\_\_\_  
David W. Goldman, His Attorney

(Time noted: 1155 a.m.)

(Jury present.)

THE COURT: Sorry we were a bit delayed in starting, but we are now ready for the presentation of evidence in the Daversa case.

DAVID WILLIAM GORDON, called as a witness by the Government, having first been duly sworn, testified as follows:

THE CLERK: State your name and address.

THE WITNESS: David William Gordon, Lancaster, Pennsylvania.

DIRECT EXAMINATION

BY MR. CLARK:

Q Mr. Gordon, you have a criminal record, do you not?

A Yes.

Q Were you convicted in May of 1964 and sentenced to one to three years in Connecticut State Prison for escape from a reformatory?

A Yes.

Q Were you convicted on October 22, 1965 in Hartford Superior Court for escape from jail, two counts of breaking and entering and one count of larceny?

A Yes.

1  
2 Q Were you sentenced three to seven years for those  
3 charges?

4 A Yes.

5 Q On September 5, 1971, did you plead guilty to a  
6 burglary charge in Middletown, New Hampshire and receive two to  
7 four years sentence for that?

8 A Yes.

9 Q Were you also convicted in October of 1973 in the  
10 State of Connecticut for carrying weapons in a motor vehicle  
11 and as being a fugitive from justice?

12 A Yes.

13 Q Did you receive a 365-day suspended sentence for  
14 that?

15 A Yes, I did.

16 Q Directing your attention to September 25, 1973,  
17 were you arrested in Connecticut on that date?

18 A Yes, I was.

19 Q Was that for the motor vehicle and weapons charges  
20 that you just referred to?

21 A Yes, it was.

22 Q Subsequent to your arrest, did you serve any time  
23 in jail on any of these charges?

24 A Yes, I did. I did a three to seven, one to three,  
25 and I was doing two to four in New Hampshire.

12A

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750 MAIN STREET  
HARTFORD, CONNECTICUT

141 CHURCH STREET  
NEW HAVEN, CONNECTICUT

MR. GOLDMAN: Keep your voice up.

THE WITNESS: I did a three to seven, one to three, and I was doing two to four in the State of New Hampshire.

Q After September 25, 1973, were you returned to jail?

A Yes, I was.

Q Where was that?

A Well, after September 25 of '73?

Q Yes.

A I was in Bridgeport for a while and then I was returned to the State of New Hampshire.

Q Was that to finish serving prior charges that you had there?

A Yes, it was.

Q When were you released from jail in New Hampshire?

A December '64, I believe it was, or '74. I am sorry.

Q Directing your attention again to September 25, 1973, can you tell us where you were arrested on that date?

A Yes. Westport, Connecticut.

Q Whereabouts in Westport, Connecticut?

A The toll booths. It was Route 95 at the toll booth.

Q Where were you coming from at that time?

A Pennsylvania.

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Q Did you reside in Pennsylvania at that time?

A Yes, I did. Lancaster, Penn.

Q Were you driving an automobile?

A Yes.

Q What type of automobile did you have?

A 1965 Cadillac.

Q Was that your car?

A Yes.

Q Did you have any weapons or firearms in your possession on that date?

A Yes, I did. I had a trunk full of firearms.

Q What types of firearms were included?

A Rifles, shotguns and I think there was a couple of pistols, too.

Q Do you have some estimate of the number of firearms that you might have had?

A I don't know. Around 20 or 25.

Q Where had you obtained these firearms?

A I stole them from a house in -- up around Lancaster, Pennsylvania.

Q When was that that you stole them?

A The previous weekend, I think it was.

Q Directing your attention to the prior week, just before you were arrested, did you have occasion to be in

Connecticut during that period of time?

A Yes, I did.

Q Where had you come from?

A Lancaster, Pennsylvania.

Q Did you bring any weapons with you on that date?

A Yes, I did.

Q Approximately how many and what variety?

A I don't remember exactly how many. I guess it was 12 or 15 or something like that. It was rifles and shotguns and a couple of pistols, too.

Q Where had you obtained those weapons?

A I stole them out of a house in Lampeter, Pennsylvania. West Lampeter.

Q Had you stolen them just recently before that trip?

A Yes, I did.

Q When?

A Within a week or so.

Q Those are the weapons you brought to Connecticut?

A Yes.

Q Did anyone come with you on that trip?

A Yes. David Hanlon did.

Q Do you recall where you went in Connecticut when you first arrived on that trip?

A Yes. I went to a friend of mine's house and I

1 stayed for the night and then I went down to Sheila's house  
2 the next day, I believe.

3 Q The next day you made contact with a person named  
4 Sheila?

5 A Yes.

6 Q What was her last name?

7 A Tracy.

8 Q Where did she live?

9 A Up off the hill street in Waterbury. I don't  
10 know the exact name of the street.

11 Q Do you recall whether you telephoned her first or  
12 went to her house?

13 A I think I telephoned her first. I am not sure.

14 Q What was the purpose of your meeting with Miss  
15 Tracy?

16 A To see if she could help me sell some guns that  
17 I had.

18 Q Some of the guns that you had brought from  
19 Pennsylvania?

20 A Yes.

21 Q Did you actually go to her house that day?

22 A Yes, I did.

23 Q Did you go inside the house?

24 A Yes, I did.

1  
2 Q Did you discuss with her at that time the dis-  
3 position of the guns that you had with you?

4 A Yes.

5 MR. GOLDMAN: Excuse me, your Honor. I have to  
6 object to this line of questioning. He is leading the witness  
7 instead of asking him what the discussion was.

8 THE COURT: Sustained.

9 Q Did you have a discussion with Miss Tracy inside  
10 the house?

11 A Yes, I did.

12 Q Do you recall what you said to her?

13 A Yes, I asked her if she knew anybody that would  
14 buy the guns that I had and I had a couple of clocks, too.

15 THE COURT: You had what?

16 THE WITNESS: A couple of clocks, too.

17 Q What was Miss Tracy's reply?

18 A She said she might know somebody.

19 Q To your knowledge, did she take any action to  
20 assist you in this venture?

21 A Yes, she called a couple of people.

22 Q She called them by telephone?

23 A Yes.

24 Q Did she identify them by name when she made the  
25 telephone call?

1  
2 A Yes.

3 Q Do you recall what one of those names might have  
4 been?

5 A Yes. Patsy was one of them.

6 Q Did you hear that telephone call?

7 A Yes, I did.

8 Q Were you present in the room at that time?

9 A Yes.

10 Q Did you hear what Miss Tracy said to Patsy?

11 A I believe she asked him if he was -- that she had --  
12 MR. GOLDMAN: It calls for yes or no.

13 Q Just answer yes or no, if you did hear what she said.

14 A Yes, I heard the conversation.

15 Q Do you recall what it was that she said to him?

16 A Yes. She asked or said that she had a friend that  
17 wanted to get rid of some stuff and would he be interested in  
18 it and I didn't hear what he said, but I did hear her say that,  
19 you know, well, that he couldn't make it then. He would be  
20 up at 3:00 o'clock.

21 MR. GOLDMAN: I move that be stricken. It's hearsay  
22 insofar as this accused is concerned.

23 Q Just what you heard Miss Tracy say.

24 A That what I said is what she said.

25 MR. GOLDMAN: It's outside the presence of the

1  
2 accused.

3 THE COURT: Are you objecting to what he is quoting  
4 Miss Tracy as saying?

5 MR. GOLDMAN: I am sorry. I am objecting to the  
6 conversation that he heard half of.

7 THE COURT: He already testified to a good bit of it.

8 MR. GOLDMAN: Yes, and I am moving that it be  
9 stricken, beginning at the point where he said she made a  
10 phone call. Any conversation that she had that he overheard  
11 subsequent to that I would say insofar as this defendant is  
12 concerned is hearsay.

13 MR. CLARK: If your Honor please, it's not being  
14 offered for the truth of the conversation but simply a basis --

15 THE COURT: Doesn't seem to be. The remarks about  
16 having a friend and all that were --

17 MR. GOLDMAN: Not that.

18 THE COURT: I am trying to understand what the  
19 objection goes to.

20 MR. GOLDMAN: It goes back to the point where he  
21 said she called someone by phone. From that point on, what  
22 her conversation was that he overheard, I am objecting to,  
23 because it is hearsay insofar as the accused is concerned.

24 THE COURT: Well, it didn't sound like any of it  
25 was offered for the truth of it. He quoted her as saying she

1  
2 had a friend who wanted to sell some stuff.

3 MR. GOLDMAN: And then he went on to say what,  
4 after she hung up, what -- I don't question what he and she  
5 discussed, but what I am talking about is her relation of  
6 what she said the individual at the other end of the phone said.

7 THE COURT: Is she going to be a witness?

8 MR. CLARK: Yes.

9 THE COURT: Then the testimony can stand. To try  
10 to break up the conversation between that part that is not  
11 offered for the truth of it and that doesn't seem useful in a  
12 situation where a person is going to be available for cross-  
13 examination.

14 BY MR. CLARK:

15 Q Mr. Gordon, at the time you heard Miss Tracy say  
16 to the person on the other end of the phone that she had a  
17 friend that wanted to sell some stuff, did you hear her  
18 indicate to that person where you were from?

19 A I don't know if she did at that time or not. I  
20 don't remember exactly.

21 Q Did you hear whether she indicated whether the  
22 goods that you wanted to sell were legitimate or not?

23 MR. GOLDMAN: Excuse me, your Honor. These are  
24 leading questions.

25 THE COURT: Sustained.

1  
2 Q All right. You don't have to answer that.

3 Subsequent to the telephone conversation did any-  
4 one arrive at Miss Tracy's house?

5 A Yes.

6 Q Was that -- what was the purpose of that person  
7 coming to the house?

8 A To buy the firearms that I had.

9 Q Did you engage him in discussion?

10 A Yes, I did.

11 Q Regarding the firearms?

12 A I asked him -- yes, I did.

13 Q At this time I will ask you to look about the  
14 courtroom and state whether you see anywhere in the courtroom  
15 the person that arrived that you had a discussion with about  
16 the firearms.

17 A Yes. He is sitting back over there. I believe  
18 that's him.

19 Q Which gentleman are you referring to?

20 A The one on my right.

21 Q In the red shirt?

22 A Yes.

23 MR. CLARK: Will the record reflect that the  
24 witness has indicated the defendant, Mr. Daversa?

25 THE COURT: Yes.

1  
2 Q Mr. Gordon, what was the first thing that you said  
3 to him or that he said to you in the discussion that ensued?

4 A I believe he said that he was in a hurry and he had  
5 to go some place or something like that and I said, "Well,  
6 let's go out and look." And him and I -- we went out and I  
7 put my car in the driveway and I opened the trunk and he looked  
8 at the guns.

9 Q Did the first part of the discussion take place  
10 inside the house?

11 A No. I believe he wouldn't come in the house for  
12 some reason.

13 Q Did he knock on the door?

14 A Yes.

15 Q Did discussion take place at that time?

16 A Yes, as we were walking out, I believe.

17 Q Who exactly was present at that time?

18 A Sheila was there, I was there, and I believe Dave  
19 Hanlon was there and Pat was there.

20 Q Were you introduced by anyone to Mr. Daversa?

21 A Yes. Through Sheila.

22 Q Did you then -- where did you go from the house?

23 A Went out to my car.

24 Q Which was located where?

25 A On the street; I had to bring it in the driveway.

Q Did Mr. Daversa accompany you at that time?

A Well, he came out to the driveway, yes.

Q Who else was with you when you went out to the car?

A Sheila and Dave.

Q During this period of time was there any discussion at all regarding the guns that you had with you?

A Well, you mean while I was bringing the car in?

Q No. At the time you got out to the car.

A Well, just that, you know, whether he was going to buy the guns or not; after he looked at them there was some discussion.

Q Can you recall what you said to him and what he said to you?

A Let me see. We were talking about after he looked at the guns, we were talking about the price of them and he asked something, where were they from or something like that. And I said, I told him don't worry about it, they are not hot around here; not to pay any attention to it.

THE COURT: You told him what?

THE WITNESS: They weren't hot around the State of Connecticut. That they had come from Pennsylvania and not to worry about it. You know, and we just talked about the price of them.

Q Did you finally agree on a price?

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A Yes.

Q Do you recall how many guns were involved in the sale?

A I think there was three or four.

Q Now, at some point did those guns leave the trunk of your car?

A Yes, they did.

Q Would you describe how that happened?

A They were wrapped in either a blanket or a coat, I don't remember which one it was. I thought I had it in the trunk of my car and Pat took them down and put them in the trunk of his car.

Q Did he leave with the guns at that time?

A Yes. He put a box of ammunition in the trunk of his car and then we talked for a little bit and he left.

Q Did he pay you money for the guns?

A Yes.

Q Prior to his leaving was there any discussion regarding any future contact?

A Yes. I asked him if he wanted any more and he said that he would take all that I could get as long as they weren't pumps. He didn't want any pumps.

Q What do you mean by bumps?

A Pump shotguns or rifles.

Q Did you indicate to him whether or not you would attempt to see him in the future?

A Yes. I told him I would be back soon as I could.

Q Did you indicate where you would be coming back from?

A From Pennsylvania.

Q Directing your attention again to September 25, the date you were arrested, what was your purpose in coming to Connecticut on that date?

A I was bringing some more guns down to sell them.

Q To whom were you going to sell the guns?

A I was going to try to sell them to Patsy.

Q Had there been any previous arrangement as to how you would get in touch with him?

A I was going to try to go through Sheila again.

Q Do you recall why in particular you would go through Sheila?

A Well, he wouldn't give me his phone number or address or anything.

Q Did he give you any instructions with respect to Sheila?

A I don't believe so. I don't believe so.

Q Did he mention anything at all with respect to Sheila and your next trip?

1  
2 A I don't know. I really don't remember.

3 THE COURT: How did Sheila come to be the person  
4 who you thought would play a part in this?

5 THE WITNESS: I went to Sheila first, the first  
6 time, and asked her if she knew where I could get rid of them.

7 Q Now, what exactly did the defendant say to you with  
8 respect to taking additional guns in the future?

9 A He said that he would take all I could get, as  
10 long as they weren't pumps or anything like that, you know.

11 Q Did he give you any indication of how you were to  
12 contact him?

13 A I don't believe so. I don't remember.

14 Q Now, the weapons that you had in your automobile  
15 on the 25th when you were arrested, would you tell us where  
16 those came from, please?

17 A Lancaster, Pennsylvania, around Lancaster.

18 Q How did you obtain them?

19 A I burglarized two homes to get them.

20 Q Subsequent to your arrest did you have occasion  
21 to speak to any law enforcement officers?

22 A Before my arrest?

23 Q Subsequent, after your arrest.

24 A To any law enforcement officers?

25 Q Yes.

1  
2 A I spoke to Bud Nadel and his partner and a state  
3 trooper from Westport.

4 Q Who was Mr. Nadel?

5 A He is A.T.F., special agent.

6 Q Do you see him here?

7 A Yes. He is sitting down there.

8 Q Did you indicate to him at that time anything with  
9 respect to the sale of firearms that you testified about?

10 A He asked me where I was selling them and I told  
11 him.

12 Q Did you tell him anything with respect to  
13 describing the person to whom you had sold the guns?

14 A I don't remember. You know, I had to tell him  
15 something, but I don't remember exactly what it was. He asked  
16 me for a description and I don't remember exactly what it was.

17 Q You don't recall what the description was?

18 A No.

19 Q Do you recall describing in some fashion the person  
20 to whom you sold the guns?

21 A Yes.

22 Q Did Mr. Nadel display any photographs to you?

23 A Yes, he did.

24 Q Do you recall approximately how many?

25 A Ten or twelve or whatever it was, yes.

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Q Did you select one of those photographs?

A Yes, I did.

Q And who was the person that you selected?

A Mr. Pat Daversa.

Q Did you select him as the person to whom you had sold the guns?

A Yes.

Q What date was that, do you recall, in terms of your arrest?

A Well, it had to be on -- it was late at night the 25th or very early in the morning, the 26th, the same day I was arrested.

Q 1973?

A Right.

Q Do you recall approximately when before that date the sale of the weapons to Mr. Daversa had taken place?

A Within a week before I was arrested. I think it was the Friday before.

MR. CLARK: No further questions.

CROSS-EXAMINATION

BY MR. GOLDMAN:

Q How old are you, Mr. Gordon?

A Thirty.

Q You spent a number of those years in prison, you

1 have already testified to that; is that true?

2 A Yes, a few of them.

3 Q Now, you say that on September 25th you were  
4 arrested in the State of Connecticut at Westport?

5 A Right, or around Westport. I don't remember  
6 exactly.

7 Q I think you said near the toll booth?

8 A Right, in the toll booth or just out of it.

9 Q You were coming from Pennsylvania with some guns?

10 A Right.

11 Q Now, those guns you had obtained by stealing them  
12 in Pennsylvania?

13 A Yes.

14 Q But approximately a week before that you said that  
15 you had made a prior sale?

16 A Yes.

17 Q Were those the only two trips that you had made  
18 into Connecticut for these purposes?

19 A I believe so.

20 Q So approximately a week before September 21st  
21 was the first time that you had come to the State of Connecticut  
22 to sell guns?

23 A Yes.

24 Q You came with a man by the name of Hanlon?

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A Yes.

Q And is he a friend of yours?

A Definitely not.

Q Definitely not?

A Definitely not.

Q Why do you say definitely not?

A Because I said definitely not, that's why.

Q Wasn't he a friend of yours on September 25?

A I couldn't tell you. Evidently he wasn't.

Q What do you mean by "evidently he wasn't"?

A I don't want to get into it.

Q I know, but I am asking you a question.

A I don't want to get into it.

Q Are you refusing to answer my question?

A Into that, yes, I am.

Q You were with Mr. Hanlon on the 25th?

A Yes, I was with him.

Q I am asking you whether or not on the 25th of September Mr. Hanlon was a friend of yours?

A I told you I don't want to get into it.

MR. GOLDMAN: Would your Honor instruct the witness to answer the question?

THE COURT: He already answered that question. He said he is not his friend. That question has been answered.

1  
2 MR. GOLDMAN: The question I ask is, why do you  
3 say definitely not a friend?

4 THE WITNESS: Because he is not.

5 Q Can you give us some reasons, sir?

6 A Sure. He started this whole thing.

7 Q What do you mean by that?

8 A Well, I don't want to get into it.

9 Q You don't want to get into why he started this  
10 whole thing?

11 A I don't want to get into anything about Dave Hanlon,  
12 right.

13 Q I am asking if you will tell us --

14 A I am not going to answer.

15 Q You're refusing to answer?

16 A Yes.

17 MR. GOLDMAN: Now I would ask your Honor to  
18 instruct him to answer that question.

19 THE WITNESS: I don't feel that it has anything  
20 to do with this, that's my personal feelings and his personal  
21 feelings and I feel that it has nothing to do with this case  
22 and all you're doing is getting me hot and I don't want to get  
23 hot, all right?

24 THE COURT: What's the question you want to ask him?

25 MR. GOLDMAN: I believe I asked him why he feels

1 the way that he does about Hanlon.

2 THE COURT: Well, he said something about he got  
3 him into all this.

4 MR. GOLDAMN: I asked him whathe meant by that.

5 Q What did you mean by he got you involved in all  
6 this?

7 A He started the whole mess.

8 Q You mean he started you off in stealing guns?

9 A Can we forget that part, please? He has nothing --  
10 it's personal between me and him.

11 Q Would you answer the question as to whether or not  
12 you mean that he started you in the sale --

13 A No, he didn't start me in the sale.

14 Q Isn't Mr. Hanlon the one who told the police about  
15 your trip up here?

16 A That's correct.

17 Q He squealed on you, didn't he?

18 A If you knew that, why did you ask me?

19 Q Would you answer my question, please?

20 A I did, he ratted on me.

21 Q That's why you're not friends with him?

22 A Definitely.

23 Q How long did you know him prior to September 25?

24 A Quite a while.

1  
2 Q Could you give us the approximate date of your  
3 first visit to the State of Connecticut with the guns, the  
4 date on which you --

5 A I was arrested on the 25th, it was the Friday before  
6 that and I was arrested on a Monday, so it would be the 24th.

7 Q About the 24th of September?

8 A About there, yes. If I was arrested on the 25th  
9 it would have to be about the 21st or 26th, someplace around  
10 there.

11 Q 21st you're saying?

12 A Someplace around there.

13 Q That was the date that you are testifying was the  
14 date on which you had this conversation and this sale that you  
15 speak of to Mr. Daversa?

16 A Yes.

17 Q That you say was Friday?

18 A I believe so, yes.

19 Q When you first came to Connecticut on that day  
20 or the day before, if you came the evening before, I believe  
21 you said?

22 A I think it was, yes.

23 Q Where did you go?

24 A Up to a friend of mine's house.

25 Q That wasn't Sheila's house that you're talking about?

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A No. It had nothing to do with this case.

Q The following day you went to Sheila's house?

A Yes, I believe so.

Q At Sheila's house she made a phone call for you?

A Yes.

Q Was that the first time that you had heard the  
name Patsy?

A No. I had heard it before, but I never knew the  
man.

Q Had you heard it somewhere other than at Sheila's  
house?

A Yes.

Q Was it prior to September 21st?

A Yes, yes.

Q Was it in the State of Connecticut that you heard  
it or somewhere --

A In the State of Connecticut.

Q How many times -- I am sorry, sir. I am confused.  
How many times did you say that you had been to  
Connecticut with guns?

A Twice. I got arrested once.

Q The 25th.

A Just because I heard his name doesn't mean that  
I was selling him guns before that. That's what you re

1  
2 trying to say.

3 Q No, I am not trying to say anything.

4 A That's just what you're trying to say.

5 Q I am asking you sir, how many trips you made to  
6 Connecticut.

7 A Two. Once when I got arrested and once before that.

8 Q You say that you heard Mr. Daversa's name as Patsy  
9 on an occasion prior to the 21st of September, which was the  
10 first time you came to Connecticut? Isn't that what you said?

11 THE COURT: He said that's when he came to  
12 Connecticut with guns.

13 Q Were there other occasions that you came to  
14 Connecticut?

15 A Oh, yes, I lived in Connecticut all my life.

16 Q Was it during the time that you lived in Connecticut  
17 prior to September 21st, is that when you first heard the  
18 name?

19 A Sure.

20 Q I think you said that when you arrived at Sheila's  
21 house -- question withdrawn.

22 Let me rephrase it.

23 When you arrived at Sheila's house how many guns  
24 do you say that you had in your car at that time?

25 A I don't remember exactly. Twelve, fifteen, maybe.

1

2

Q Twelve to fifteen guns?

3

A Maybe.

4

Q And was the first sale that you made with that load

5

of guns to Mr. Daversa?

6

A No, it wasn't.

7

Q It was not?

8

A I don't believe so. Maybe it was. I am not

9

positive. I know he didn't take all I had.

10

Q He didn't take all you had?

11

A No.

12

Q Did you make an attempt to sell to someone else

13

prior to talking to Mr. Daversa?

14

A I don't remember, to tell you the truth. I don't

15

remember.

16

Q At the time that you talked to Mr. Daversa and

17

opened the trunk of your car, did you still have twelve to

18

fifteen guns?

19

A No, I didn't have that many, so I must have sold

20

some of them already.

21

Q Approximately how many did you have at that time?

22

A About six or eight maybe.

23

Q Of those six or eight, how many do you say

24

Mr. Daversa bought?

25

A I think he took three or four, I know it was more

1  
2 than two, but I am not sure if it was three or four.

3 Q Which would leave anywhere from three to four?

4 A Well, I don't know.

5 Q If you had six to eight, isn't that true?

6 A If that's what you're saying.

7 Q You also say that he told you at that time that he  
8 would take all you could get?

9 A All except pumps. Now, if you will look at the  
10 arrest report, half of the guns were pumps.

11 Q Are you saying that the three to four guns that  
12 were left were all pumps?

13 A I would say so, yes.

14 Q Were these guns new guns or used guns or --

15 A No, they were used.

16 Q How much do you say that Mr. Daversa paid you  
17 for these guns?

18 A I don't remember exactly. It was a couple  
19 hundred dollars. I remember he gave me one \$100 bill.

20 Q He gave you one \$100 bill?

21 A I remember that.

22 Q What else?

23 A I don't remember.

24 Q Are you saying that he paid \$100 or more than  
25 \$100?

1  
2 A No, he paid more than that. It was around two,  
3 two something. I don't know.

4 Q Around two?

5 A Yes. I don't remember exactly what it was.

6 Q Do you remember the interview that you had with  
7 Agent Nadel the day that you were arrested?

8 A Yes.

9 Q Do you remember telling him the story of what  
10 had transpired?

11 A Yes.

12 Q Prior to that date?

13 A Yes.

14 Q Do you remember giving him a written statement or  
15 signing a written statement for him on that day?

16 Yes.

17 Q Do you remember whether or not you, in that  
18 statement, subscribed and swore to that statement?

19 A Well, they told me the other day that I did, but  
20 I don't remember whether it was sworn to.

21 Q They told you the other day that you did?

22 A Yes.

23 Q Who told you the other day that you did?

24 A When I read my statement it wasn't told to me,  
25 but on the bottom it said, "signed and sworn to."

1  
2 Q So that you made that statement under oath?

3 A I don't know. I don't remember swearing to it.

4 Q You don't remember swearing to it? You remember  
5 making the statement, don't you?

6 A Yes, I remember that.

7 Q You remember signing your name to it?

8 A Right.

9 MR. GOLDMAN: Do you have the original?

10 Q I show you a xerox copy of Court Exhibit 3501 and  
11 I ask you, Mr. Gordon, is that your signature?

12 A Yes, it is.

13 Q Was that signed in the presence of Agent Nadel?

14 A Yes.

15 Q And do you read?

16 A Yes, I read.

17 Q Can you tell us whether or not it doesn't  
18 indicate that it was subscribed to and sworn to?

19 A Well, I will tell you what, when it was typed up,  
20 okay. I probably read it, but I mean, where it says "Sworn  
21 to and subscribed" -- I don't read stuff like that, you know  
22 what I mean.

23 Q Did Agent Nadel ask you to raise your hand and  
24 say whether or not what you were signing was the truth?

25 A No, he did not.

1 Q He did not?

2 A No. I don't believe he did. Now, maybe I am  
3 wrong.

4 Q Did you say to him at that time on September 25,  
5 sir, that you had been buying and selling firearms for about  
6 four weeks?

7 A Yes.

8 Q Did you tell him that you bought the guns that  
9 you were selling in Lancaster, Pennsylvania?

10 A Yes.

11 Q Did you tell him anything about the guns that  
12 you had here on the 21st as being stolen?

13 A Yes. I believe so. I don't know. Maybe not.  
14 I believe some of them were said to be stolen. Maybe they  
15 weren't.

16 Q Did you tell him that you had come to Connecticut  
17 three weeks before that, not on September 21st, but three  
18 weeks before, do you remember telling him that?

19 A I would have to read the statement.

20 Q Well, sir, I am going to show you the statement  
21 and ask you to read it to yourself.

22 A Yes, I said it.

23 Q You did say that three weeks ago you came to  
24 Waterbury?  
25

1  
2 A Right.

3 Q It wasn't three weeks ago, was it, at the time  
4 that you signed that?

5 A No. It was approximately four or five days  
6 before that.

7 Q So that was a lie? Wasn't it?

8 A No, it wasn't a lie. It was just a misunderstanding  
9 in time, that's all.

10 Q Did you say in that statement that you came with  
11 seven or eight guns?

12 A Maybe that's what it was. That was a year and  
13 a half, is what I am saying. I am not that good on numbers  
14 and times as to remember.

15 Q You don't remember whether it was seven, eight,  
16 twelve, or nineteen?

17 A Maybe it was, I came a couple of times.

18 Q This morning you testified twelve to fifteen  
19 guns.

20 A That's what I think it was in the car.

21 Q On September 25th when you signed the statement  
22 you said you had seven or eight guns. Was that a misunder-  
23 standing? Did you say in that statement that two weeks  
24 later you went to the Waterbury Plaza with seven guns and  
25 met the same person, referring to Mr. Daversa?

1

2

A Yes, I did.

3

Q Did you ever do that?

4

A No.

5

Q That was a misunderstanding, or was that a lie?

6

A No, it wasn't. It wasn't a misunderstanding.

7

Q It was a lie?

8

A Well, it must have been, yes. I was trying to

9

get out of whatever I could the easiest way I could, without  
putting anybody into anything at the time.

11

Q You said you went to the Waterbury Plaza with

12

seven guns and met the same person again at about 3:00 o'clock.

13

That wasn't true, was it?

14

A No.

15

Q You said at the time he paid you \$400. for the

16

seven or eight guns. You said that in that statement, didn't  
you?

17

18

A If it's there.

19

Q Look at it and tell me whether it's there.

20

A If it's there. If you say it's there, I take

21

your word for it.

22

Q You said he called some guy from Torrington.

23

A If that's there.

24

Q Pardon me? Who did you mean by "he," Patsy?

25

A It must have been if that's the way it's put.

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Q Did he call some guy?

A no.

Q That was a lie, too?

A Yes.

Q Isn't it?

A Yes.

Q And you talk about this man from Torrington came down and bought a rifle with a scope.

A Yes.

Q And that he paid you \$125 for that rifle.

A Right.

THE COURT: Did that happen?

THE WITNESS: Yes.

Q You said at the bottom of that statement that you read it and initialled any corrections, if any, where required, and that the statement was true and correct, did you not?

A Yes, I did.

Q But it wasn't true and correct?

A No, not all, it wasn't.

Q You didn't say anything at that time about Mr. Daversa offering to buy more guns from you, did you?

A No.

Q Didn't you say a word about that on September 25th,

1  
2 four days after you allegedly made this other sale to him?

3 A Right.

4 Q You said nothing in this statement about the load  
5 of guns that you had on September 25th being for Mr. Daversa,  
6 did you?

7 A I wasn't asked about it, where they were going.

8 Q Do you remember giving your whole story on this,  
9 weren't you?

10 A Yes, I guess I was at the time.

11 Q You didn't say anything about it then, did you?

12 A No.

13 Q Now, were you interviewed again by Agent Nadel  
14 a couple of or a few days later on the 2nd of October?

15 A Yes, I was.

16 Q Did they take your statement down on a tape  
17 recorder at that time?

18 A Yes, they did.

19 Q Do you remember what you said on that occasion  
20 to the investigating officers?

21 A No, because I have not listened to the tape.

22 MR. GOLDMAN: Can we agree that Court Exhibit 3503  
23 is a transcript of that tape recording?

24 MR. CLARK: Yes.

25 Q Do you recall, Mr. Gordon, on that occasion of

October 2nd -- by the way, where was that tape recording made?

A State police barracks.

Q Do you recall saying on that occasion that you had made two trips to Connecticut?

A Yes.

Q And did you say that you made one the other night and one in March?

A I don't remember, I might have said it. I don't remember.

Q That wasn't true, then?

A No, I guess not.

Q Do you remember saying on that occasion that you sold two guns to a fellow in Thomaston?

A Yes.

Q Didn't you say that in your original statement that you sold them to a man in Torrington?

A I get them two towns mixed all of my life, because I don't know which one is in which end of the state.

Q Didn't you say that you sold the fellow in Thomaston two guns?

A Yes, I did.

Q On your statement of the 25th you say you sold him one gun, a rifle with a scope.

A That's right. I did. I sold him one on one

1  
2 occasion and one on another occasion in the same day.

3 Q Do you recall in telling the investigating  
4 officers about the incident at Sheila Tracy's house what you  
5 said regarding that?

6 A What did I say regarding it?

7 Q That you -- that he paid 3 or \$400 for all the  
8 remainder of the guns.

9 A I might have said that, yes.

10 Q But according to your testimony this morning, if I  
11 understood you, it wasn't all the remainder of the guns, was  
12 it?

13 A No, I don't believe it was.

14 Q So that wasn't true?

15 A Right.

16 Q And your testimony this morning that it was 100  
17 or \$200?

18 A I believe so.

19 Q Is not the same as what you said on October 2nd  
20 when you say it was 3 or \$400; is that right?

21 A Right.

22 Q Isn't it your testimony this morning that --  
23 question withdrawn.

24 Did you tell him that the guns that you were  
25 selling were stolen?

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A I believe I did, yes.

Q Do you recall that on October 2nd when you gave the tape recording, when you were asked that same question, you said no, but he knew it? Do you recall that?

A Yes.

Q When you were interviewed on the 25th of September didn't you give the investigating officer a description of the man that had supposedly purchased these guns from you?

A Yes.

Q Do you recall how you described him?

A No, I don't.

Q Do you want to look at your September 25th statement, sir?

A If you want me to.

Q I would appreciate it if you would.

A Where is it?

Q You have it in your hand.

A This is it? Okay.

Yes, I remember that.

Q Did you say anything about him wearing glasses?

A No, because I don't remember him.

Q You don't remember whether, at the time you saw him, he did or did not wear glasses?

A No, I don't.

1  
2 Q He might have had them and he might not?

3 A He might have and he might not.

4 Q I think in answer to Mr. Clark's question this  
5 morning as to whether or not you recognized Mr. Daversa,  
6 you said that you believed that's him.

7 A That's right.

8 Q You're not positive?

9 A Well, you know, it looks like him. You know what  
10 I mean. I told you he has changed an awful lot since I have  
11 seen him. I only saw the man once.

12 Q You saw him one time?

13 A That's it, once.

14 Q How long did you see him on that one time?

15 A Fifteen minutes.

16 Q How long did this whole thing take place?

17 A Fifteen minutes.

18 Q Fifteen minutes from the time he arrived until  
19 he departed?

20 A I would say about fifteen minutes. I think so,  
21 I don't know.

22 Q This transaction that you described took place,  
23 I think you said outside, not in the apartment?

24 A Definitely.

25 Q I believe you said that -- who did you say was

1  
2 with you when the trunk of your car was open?

3 A Sheila and Dave and -- no.

4 Q Sheila was outside with you?

5 A I believe so, yes.

6 Q And your friend, Mr. Hanlon, was outside with you?

7 A He's not my friend, man.

8 Q Mr. Hanlon was outside with you?

9 A Yes.

10 Q Do you recall describing the kind of automobile  
11 that Mr. Daversa supposedly had?

12 A Yes, I do.

13 Q What did you tell the police? What kind of a car  
14 did you tell the police on September 25th?

15 A I told them I thought it was a Buick.

16 Q Did you give a year?

17 A I gave a couple of years. I wasn't sure on the  
18 year.

19 Q Did you give a color?

20 A Yes. It was a silver-gray bottom with a black  
21 top, I believe.

22 Q Now, do you recall, Mr. Gordon, another interview  
23 that was conducted with Agent Nadel?

24 A Yes.

25 Q Which took place in February while you were up

1  
2 in the New Hampshire prison?

3 A Yes.

4 MR. GOLDMAN: Can we agree that Exhibit 3504 is  
5 that transcript of that?

6 MR. CLARK: Yes.

7 Q Do you remember on that occasion telling the  
8 investigating officers that you got in touch with somebody  
9 that you knew could sell the stuff like that for you?

10 A Yes.

11 Q And telling them that you would have them sell the  
12 stuff for you?

13 A That I would have them?

14 Q Have them, as opposed to you doing it yourself?

15 A No, I don't know if I said -- what do you mean,  
16 as opposed to me doing it myself? Nobody sells my stuff but  
17 me. I might go through somebody else, but I sell it.

18 Q You don't go through that --

19 A My answer was that I get in touch with somebody  
20 that I knew could sell the stuff like that for me and had  
21 them sell the stuff for me. Them, in other words, going  
22 through them, but I sell the stuff.

23 Q Did you also say that in addition to the guns  
24 that he will buy some ammunition?

25 A I gave him the ammunition.

1  
2 Q Do you remember testifying or in your statement  
3 at the prison saying that he bought some ammunition?

4 A Maybe he did buy it. I thought I gave it to him.  
5 I am pretty sure I gave it to him.

6 Q You say that he looked different on the occasion  
7 that you saw him in Septemember than he does now?

8 A Yes, he did.

9 Q What is your best recollection of what the  
10 difference is?

11 A Well, he was a working man then; he looked like  
12 he was working. Now he looks like a business man. He is  
13 working, he was an outside worker. He had a nice tan, his  
14 hair was fluffy, he had paint clothes on. It looked like he  
15 just came from work.

16 Q He had coveralls on?

17 A No. Painter's clothing. Clothing with paint on it.

18 Q Don't painters wear coveralls?

19 A Painters wear pants, too.

20 Q Was he just dressed with regular clothing?

21 A I believe he had on a sweat shirt. I am not  
22 sure. I think a gray sweat shirt, but he had on paint pants,  
23 I remember that.

24 Q Do you recall also, sir, in your interview in  
25 February that you had or told the investigating officers that

1  
2 you were paid between 2 and \$300 for the guns?

3 A May? I told you I am not very good on prices.  
4 Maybe I did tell them that. I told you it was around 200,  
5 maybe a little more.

6 Q Except on September 25th when you said it was  
7 400?

8 A Could have.

9 Q Now, do you remember testifying before the grand  
10 jury, the -- the number of guns that you claim to have sold  
11 was three to four, if I understand your testimony now?

12 A I believe so. I am not positive. I told you  
13 that.

14 Q Do you have any idea what those guns were worth?

15 A What they were worth? I know they were worth  
16 quite a bit of money, a lot more than he bought them for.

17 Q What do you mean quite a bit more?

18 A One of them in particular, I would say, was  
19 worth about 300 bucks.

20 Q You mean that's what it sold for?

21 A In the market that's what it would sell for over  
22 the counter.

23 Q But that would average out to about, if you sold  
24 them for 3 to \$400, that would average out to about \$100  
25 apiece or so?

1  
2 A It depends on what the gun is; some guns cost  
3 \$20 and some cost 500, you know.

4 Q Well, didn't you in your statement say that you  
5 sold one gun to this man from Thomaston for \$125?

6 A Right. That's different. The man was buying one  
7 gun at the time.

8 Q Didn't you say also that you subsequently sold  
9 him another gun?

10 A Yes, I did later that night.

11 Q How much did you sell that one for?

12 A I don't remember exactly now.

13 Q Who sets the price on this?

14 A I do, me.

15 Q How do you determine the price?

16 A Whatever I think I can get.

17 Q Whatever you think you can get?

18 You had never met Mr. Daversa before the one  
19 occasion?

20 A I wouldn't swear to that, but to the best of my  
21 knowledge, I had never met him.

22 Q As far as you can recall, there was only one  
23 occasion on which you met him?

24 A That's right.

25 Q And on that one occasion he immediately bought

1  
2 some guns from you?

3 A Yes.

4 Q That's what your testimony is?

5 A Yes.

6 Q Now, you claim to have made this sale on  
7 September 21st to Mr. Daversa.

8 A Around there.

9 Q And you also have testified that you had an  
10 additional load of guns on the 25th of September?

11 A Right.

12 Q And I would like to ask you, sir, whether or not  
13 any promise or reward or anything of that sort has been offered  
14 to you for testifying here this morning?

15 A There is nothing they can offer me.

16 Q Why?

17 A Because every charge I have has been taken care of.

18 Q How long have you known Sheila Tracy?

19 A Five or six years maybe. I don't know. Around  
20 there, I think.

21 Q But most of the information that you heard about  
22 Mr. Daversa I think you said you heard through Sheila?

23 A Oh, no, babe. You ain't putting me in the trick  
24 now. Take it back and go back.

25 I said that Sheila never mentioned his name

1 before and I said I heard his name other places, but I didn't  
2 say why I heard it or for what reason.

3 Q I see. Did Sheila mention his name?

4 A I don't know. Maybe she did.

5 Q You don't know?

6 A I couldn't tell you.

7 Q When she made the phone call didn't she tell you  
8 who she was calling?

9 A Yes.

10 Q Who did she say she was calling?

11 A She said she was calling Patsy.

12 Q Did you know who that was?

13 A I knew the name.

14 Q From what you heard on the telephone, did she tell  
15 whoever she was talking to what you had in mind?

16 A She told him that I had some stuff that I wanted  
17 to get rid of, yes.

18 Q Did she say what kind of stuff?

19 A It's hard to say, because I don't remember. I  
20 believe she did.

21 Q It is also your testimony, sir, that on this  
22 occasion of September 21st Mr. Daversa did not come into the  
23 house?

24 A I don't believe so. I am not going to swear to  
25

1  
2 that.

3 Q I thought you testified on direct that he wouldn't  
4 come into the house?

5 A I don't believe he did. Maybe I am wrong, but I  
6 don't believe he did. I believe he came as far as the porch.

7 Q Can you tell us, sir, whether or not the  
8 discussion relative to the purchase and the price and so forth  
9 was conducted in such a manner that Hanlon and Sheila were  
10 close enough to have heard it?

11 A I believe so, yes.

12 MR. GOLDMAN: You may inquire.

13 REDIRECT EXAMINATION

14 BY MR. CLARK:

15 Q Was there any extensive discussion over the  
16 price of the guns that you were going to sell?

17 A Yes. He didn't want to pay me what I wanted.

18 Q Did you haggle back and forth?

19 A Yes. Then finally he gave me a flat price and  
20 said that's it, that's what I would settle for. I didn't  
21 want to, but I did.

22 Q Did he give you any reason why he didn't want to  
23 pay a higher price?

24 A Well, he couldn't get rid of them; he couldn't  
25 make anything on them if he didn't.

1  
2 Q Did you give him any reason why you thought the  
3 guns were worth more?

4 A Yes, because they were worth more.

5 Q Was there any mention made of their origin  
6 during the course of that conversation?

7 A What do you mean, origin?

8 Q Where they came from.

9 A Yes. They came from Pennsylvania.

10 Q Was there any reference made as to why that  
11 would make them more valuable?

12 A They weren't hot around this area. They weren't  
13 stolen from around Connecticut.

14 Q You specifically discussed that with Mr. Daversa?

15 A Yes.

16 Q Was there any discussion at all about what the price  
17 might be in future deliveries?

18 A No. I don't believe so.

19 Q You mentioned a sale of guns to another individual  
20 from either Thomaston or Torrington.

21 A Right.

22 Q Is that correct?

23 A Yes.

24 Q When did that sale take place?

25 A I think it was the same day. I am not positive.

1  
2 I think it was the same day.

3 Q How did you get in contact with that customer?

4 A Same way.

5 Q Through Sheila?

6 A Yes.

7 Q Did she make a phone call or personal visit, if  
8 you recall?

9 A She made a phone call.

10 Q As a result of that phone call, did you go any-  
11 where to meet anyone?

12 A Yes. I went to North Main Street to meet him, off  
13 North Main.

14 Q In what town?

15 A Waterbury.

16 Q Would you say how you got there and who was with  
17 you?

18 A How you would get there, we drove up there in my  
19 car.

20 Q Who was with you?

21 A Sheila was with me.

22 Q Did you meet anyone?

23 A Yes. I don't know his name, though.

24 Q Where did you meet him? Was it a public area?

25 A It was right on the side of the street, just off

1  
2 the north. It's the first light up from Hill Street on  
3 North Main and we took a right there. I know it was right  
4 there.

5 Q How did he arrive?

6 A In a pick-up truck.

7 Q Was he alone?

8 A Yes.

9 Q Did you sell him any guns at that time?

10 A Yes, I sold him one gun at that time?

11 Q Do you recall what kind it was?

12 A It was, I believe I sold him the rifle at that  
13 time. It was either a 222 or a .223 rifle.

14 Q Was there any discussion with him at that point  
15 as to whether there would be an additional sale to him?

16 A Yes. He wanted one more and I sold it to him that  
17 night.

18 Q Where did that occur?

19 A Down at his house.

20 Q Did you go to his house?

21 A Yes, I did.

22 Q Who went with you?

23 A I think Sheila did.

24 Q Now, directing your attention to the time after  
25 you were arrested, did you describe this transaction to

1  
2 Mr. Nadel?

3 A Yes.

4 Q Did you describe the kind of vehicle that the man  
5 was driving?

6 A Yes.

7 Q Did you give Mr. Nadel any direction or  
8 instructions on how to get to the man's house?

9 A I didn't.

10 Q Did you do that -- how did you do that? How did  
11 you make that description?

12 A I don't remember now. I told him how to get  
13 there. I know it's in Thomaston. I believe it is.

14 Q Did you give him a specific address?

15 A Yes -- no, not an address. I told him how to get  
16 there.

17 Q And you described the streets?

18 A Yes.

19 Q And so forth?

20 A Yes.

21 Q Was that at or about the same time that you  
22 selected the photograph of Mr. Daversa?

23 A The same day, I believe, or the -- it was either  
24 the same day or the next day.

25 Q You have given several statements to agents with

1a. [unclear] and you 60A [unclear] [unclear] the [unclear]

1  
2 law enforcement and you have testified before the grand jury;  
3 is that correct?

4 A Yes.

5 Q Some of those statements differ in their detail.

6 A Yes.

7 Q During any of those statements did you ever deny  
8 having sold guns to Mr. Daversa?

9 A No, I don't believe so.

10 Q Did you ever identify anybody else as the individual  
11 to whom you sold guns through Sheila?

12 A No, I don't believe so.

13 Q Is that the only photograph that you selected?

14 A Yes.

15 MR. CLARK: No further questions.

16 CROSS-EXAMINATION

17 BY MR. GOLDMAN:

18 Q Mr. Clark asked you whether or not there was  
19 any haggling over the price. As a matter of fact, in your --  
20 one of your interviews, didn't you use the expression that he  
21 jewed you down?

22 A That's just what he did.

23 Q In your interview in New Hampshire, weren't you  
24 asked about whether or not you had sold any guns to another  
25 individual by the name of Jimmy Palumbo?

1  
2 A Yes. I was asked, I believe.

3 Q And you wouldn't say whether or not you had sold  
4 him any guns?

5 A I don't believe it has anything to do with this  
6 case, whether I did or not. That has nothing to do with this  
7 case.

8 Q Can you tell us about the other sale that you do  
9 talk about, the one to the man in Thomaston?

10 Two guns were sold to him?

11 A Right.

12 Q At two different times?

13 A Yes. Same day, but one was during the day and  
14 one was night.

15 Q When was that date or time in relationship to  
16 the incident you claimed to have had with Mr. Daversa?

17 A I don't remember exactly what day it was.

18 Q You don't remember if it was the same day --

19 A I don't remember if it was the same day I got  
20 into Connecticut or the same day I sold it to him, I don't  
21 remember.

22 Q The two guns you sold to that man, were those  
23 two sales on the same day?

24 A Yes.

25 Q What you are saying is that you don't remember

whether or not those two sales took place prior to or subsequent to the sale to Mr. Daversa?

A Right.

Q Were either of the guns that you sold to that man considered pump?

A I believe one of them was. I believe so. Now, I am not positive. I wouldn't swear to it, but I believe one of them was; maybe they both were.

MR. GOLDMAN: That's all.

MR. CLARK: No further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take our lunch recess at this point. I will ask you not to, during these recesses and overnight, not to discuss the case with anyone and not even among yourselves as fellow jurors. Wait until you have heard all the evidence and understand the rules of law that apply to this particular case.

(So adjourned until 2:00 o'clock.)

## AFTERNOON SESSION

(2:25 p.m.)

(Jury present.)

FRANCIS CONROY, called as a witness by the Government, having first been duly sworn, testified as follows:

THE CLERK: State your name and address.

THE WITNESS: Sergeant Francis H. Conroy, 167 Skokorat Street, Seymour, Connecticut.

## DIRECT EXAMINATION

BY MR. CLARK:

Q Sergeant, what is your occupation?

A I am a member of the Connecticut State Police Department for 17 years, sir.

Q Directing your attention to September 25, 1973, were you on duty that day?

A Yes, sir, I was.

Q What was your area of responsibility?

A Actually I was assigned to Troop G, Westport, which includes Fairfield County, and that would be the Westport area.

Q Any time during that day did you have occasion to proceed to the area of Exit 18 on the Connecticut Turnpike?

1  
2 A Yes, I did.

3 Q Why did you go there?

4 A As a supervisor I was called to a scene of a  
5 possible burglary or larceny. two of our men had stopped an  
6 individual on.

7 Q Did you observe anyone when you arrived in that  
8 area?

9 A Yes, I did.

10 Q Who did you see?

11 A Two troopers at the scene, Trooper Miller and  
12 De Santi.

13 Q Was there anyone with them?

14 A Yes, there was.

15 Q Who was that?

16 A An individual later identified to me as a Gordon,  
17 an individual by that name.

18 Q Was there an automobile there at the time?

19 A Yes, there was.

20 Q Do you recall what kind of a car that was?

21 A It was a black Cadillac '65.

22 Q Who was in possession of that automobile?

23 A The individual, Gordon.

24 Q After you arrived at the scene, did you have  
25 occasion to view the contents of the automobile?

1

2

A Yes, I did.

3

4

Q Please describe what you did in conjunction with that?

5

6

A Upon arriving at the scene, Trooper De Santi told me that the individual --

7

Q Just what you did; not what anyone told you.

8

9

10

A Actually what I did, I took physical possession of the ignition key and went to the trunk of the vehicle and opened it up.

11

Q What did you see when you opened the trunk?

12

A A large amount of guns.

13

Q What types of weapons were they?

14

15

A They were both handguns and long rifles and shot-guns.

16

17

Q Do you have any estimate of the number of weapons that you say?

18

19

A By a physical count, when I removed the vehicle, yes.

20

Q Approximately how many?

21

A Fifteen.

22

23

Q What did you do with those weapons that you saw in the Cadillac?

24

25

A I took them into my possession and placed them in my police cruiser.

Q What did you do with them from that point?

A And left the immediate area back to Troop G, Westport.

Q Do you know what was done with them when they arrived back at the barracks?

A Yes. They stayed with me under my possession for approximately 20 minutes.

Q Do you know if anything was done with respect to logging in the weapons?

A Yes, there was. Under my supervision, both Troopers De Santi and Glover took a physical inventory by serial number and nomenclature of the weapons themselves.

Q Were all of those the weapons that you had taken from the Cadillac?

A Yes, they were.

MR. CLARK: No further questions.

MR. GOLDMAN: I have no questions.

THE COURT: All right. You are excused.

(Witness excused.)

1  
2 J I M M Y G L O V E R, called as a witness by the  
3 Government, having first been duly sworn, testified as  
4 follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: Jimmy D. Glover, 56 Yarwood Street,  
7 Stratford, Connecticut.

8 MR. GOLDMAN: I request permission to approach the  
9 bench for a side-bar conference.

10 THE COURT: All right.

11 (At the bench.)

12 MR. GOLDMAN: I understood we were going to have  
13 an opportunity to object to the guns themselves being brought in.  
14 They have just been wheeled into the courtroom in front of the  
15 jury and I find that contrary to my understanding of our  
16 conference earlier this morning. I don't get a chance to  
17 object to their being brought into the courtroom.

18 THE COURT: I thought you had objected already and  
19 I overruled the objection.

20 MR. GOLDMAN: Then I misunderstood your Honor as  
21 far as the guns being brought in, because we have raised  
22 several points for the reason, not the least of which was the  
23 inflammatory nature of bringing guns in, and second was the  
24 fact that --

25 THE COURT: I understood that objection and I

1  
2 overruled it.

3 MR. GOLDMAN: I misunderstood. I knew you had  
4 overruled the other motion, but not --

5 THE COURT: I understood you objected on two  
6 grounds. One was that the initial proposal was to offer the  
7 weapons in advance of any testimony linking the defendant --

8 MR. GOLDMAN: That's true.

9 THE COURT: Then the Government decided to reverse  
10 its order of proof.

11 MR. GOLDMAN: I didn't realize that, your Honor  
12 had generally ruled on that same thing.

13 THE COURT: As to the sufficiency.

14 MR. GOLDMAN: When they agreed insofar as the  
15 order of proof was concerned, the order in which they would  
16 be brought in, I understood and it may be my error, but I  
17 understood your Honor would then rule on the admissibility of  
18 bringing the guns into the courtroom.

19 THE COURT: You made the second point that you  
20 thought the exhibit would be inflammatory.

21 MR. GOLDMAN: Yes.

22 THE COURT: I thought I had rejected that point.  
23 These are the very weapons that the defendant is accused of  
24 bringing into Connecticut.

25 MR. GOLDMAN: That the defendant is accused of

1  
2 bringing into Connecticut?

3 THE COURT: That's right. And the jury is  
4 entitled to see them, because part of the question is going to  
5 be did he know they were stolen and how they appeared is  
6 going to be one aspect of their consideration.

7 MR. GOLDMAN: I certainly respect your Honor's  
8 ruling. I was not aware that your Honor had made a final  
9 ruling on that. I thought it was to be postponed for a later  
10 determination, but I may be in error on your Honor's ruling.

11 THE COURT: Well, I think I did rule. Certainly  
12 anything else in the way of objection that you have, assuming  
13 this witness ties them up to what Sergeant Conroy said.

14 MR. GOLDMAN: Well, I think they should be tied  
15 up first insofar as my client is concerned. We don't  
16 question the fact that these guns were found in Mr. Gordon's car.

17 THE COURT: He laid in his proof that he relies  
18 on to tie it to your client. The testimony of the first  
19 witness is he says he was going to bring back some more and  
20 your client said he would take whatever he could get. That's  
21 enough for admissibility.

22 (In the presence of the jury.)

23 DIRECT EXAMINATION

24 BY MR. CLARK:

25 Q Mr. Glover, what's your occupation?

1  
2 A At present I am a detective attached to the  
3 Fairfield County State's Attorney's Office, Division of  
4 Criminal Justice.

5 Q Have you ever been employed by the Connecticut  
6 State Police?

7 A Yes, I have.

8 Q Were you so employed September 25, 1973?

9 A Yes, I was.

10 Q Directing your attention to that date, did you  
11 have occasion to be present in the Troop G headquarters of the  
12 Connecticut State Police?

13 A Yes, I did.

14 Q Where is that located?

15 A It's located on the Post Road in Westport.

16 Q Were you on duty that day?

17 A Yes, I was.

18 Q Did you have occasion to see then Corporal Conroy?

19 A Yes, I did.

20 Q Would you please describe the circumstances under  
21 which you saw him?

22 A Well, at that time I was advised by Corporal  
23 Dwight Carlson that an individual had been stopped on the  
24 highway.

25 MR. GOLDMAN: Objection.

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Q Where did you see him?

A It was on the first floor of the barracks in the kitchen area and at that time there were a number of weapons in the same room with him.

Q Did he turn those weapons over to your possession at any time?

A Yes, he did.

Q Did you make any list or category of the weapons that Corporal Conroy had?

A Yes.

Q Do you have that copy with you today?

A Yes, I do.

Q Would you state, please, the first item on that inventory?

A Which set of guns are we talking about?

Q You have an inventory of the weapons that were brought into the station by Corporal Conroy; is that correct?

A Yes.

Q Does that inventory contain a description of several guns?

A Yes, it does.

Q Referring you to the first item on the inventory, would you say what that is, please?

A Number 1 would be a .22 calibre Springfield Rifle,

1  
2 Model 84, bolt action, no serial number.

3 THE COURT: Is your offer of proof as to all the  
4 items in the basket?

5 MR. CLARK: Yes.

6 THE COURT: Perhaps he can look at them and  
7 identify them. Are you going to deal with them individually?

8 MR. CLARK: Well, simply to identify them and  
9 compare them to the inventory. I can have the witness approach  
10 the exhibits and compare his inventory with the items and do  
11 it all at once.

12 THE COURT: It might be simpler.

13 Q Just to set an example of how this will be demon-  
14 strated, I show you this exhibit which is a tag Exhibit 1  
15 for identification, and ask if that compares in description  
16 and serial number to the item --

17 A Yes, it does.

18 Q Now, would you please take your inventory and  
19 approach the basket containing several weapons and compare  
20 your inventory with the items in that basket. Look at them  
21 to compare the weapon.

22 A Number 2, .270 calibre Winchester rifle, Model 70,  
23 bolt action, with four-power Weaver scope, serial number  
24 191315.

25 This is a 12-gauge Winchester shotgun, pump model

1200, serial number 219145.

The next item I have is a 12-gauge Remington shotgun, Model 31, serial number 19915.

This is a 300 magnum Winchester rifle with six-power scope attached, serial number 713205.

Here we have a .22 calibre high standard revolver with holster, serial number 1598245.

And this is a Savage shotgun, 410-gauge, Model 220, break-open type, no serial number on it.

This item is an L. C. Smith 12-gauge shotgun, double barrel side by side, serial number 3395.

This weapon is a Remington 30 yard 6 rifle with a four power Weaver scope attached, serial number 263979.

This weapon is a 20-gauge Ithaca shotgun, pump model 31, serial number 400805.

This weapon is a Winchester .32 calibre rifle, lever action, Model 9432 WS, serial number 1208036X.

This weapon is a .22 calibre H & R revolver, serial number 978670.

This weapon is a Savage shotgun rifle combination.

Q Are those all the weapons that were included??

A This weapon is a .22 calibre pistol Erma Werkie. serial 304401.

Q Have you stated now all of the weapons and serial

1  
2 numbers that Sergeant Conroy took over to you?

3 A Yes, I have.

4 Q Did you, prior to coming into court, make photo-  
5 graphs of all of these weapons?

6 A Yes, I did.

7 Q How many photographs did it take to encompass all  
8 of them?

9 A Two photographs.

10 Q Do you have those with you?

11 A Yes, I do.

12 Q Where were those photographs made?

13 A I believe they were made in your office.

14 Q Were you present when they were made?

15 A Yes, I was.

16 Q Did you observe their photographer taking the  
17 pictures?

18 A Yes, I did.

19 Q I show you Government's Exhibits 3 and 4 for  
20 identification and ask if these photographs are a fair and  
21 accurate representation of all the firearms that you have  
22 described?

23 A The photographs are, with one exception.

24 Q What exception is that?

25 A That exception would be the .22 calibre automatic

pistol, the Erma Werkie.

Q Is that pistol depicted in those photographs?

A No, sir, it is not.

Q With the exception of that, are the photographs fair and accurate representations of all the other weapons?

A Yes, they are.

MR. CLARK: I offer Exhibits 3 and 4 for identification as full exhibits. I show them to counsel.

MR. GOLDMAN: May I inquire of the witness?

VOIR DIRE EXAMINATION

BY MR. GOLDMAN:

Q What was it you said about it not being completely representative and something about an Erma Werkie gun.

A The last weapon that I described is not in either of the photographs.

Q It was not in either of the photographs?

A No, it's not.

MR. GOLDMAN: Your Honor, the same objection that was raised earlier I raise again, regarding the photographs.

THE COURT: All right. That objection is overruled.

Full exhibits 3 and 4.

(Government Exhibits 3 and 4 for identification received in evidence.)

1  
2 MR. CLARK: In view of the photographs, I would  
3 not submit the full exhibits themselves. In other words, the  
4 photographs would serve as a substitute.

5 I have no further questions of this witness.

6 CROSS-EXAMINATION

7 BY MR. GOLDMAN:

8 Q Trooper Glover, these guns that you have  
9 described and photographs, were found in the automobile of  
10 an individual by the name of Gordon?

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 Q Were you one of the arresting officers of  
15 Mr. Gordon?

16 A No, sir, I was not.

17 Q You were not present at the time that he was  
18 stopped at the toll plaza or near Exhibit 18, whatever it was?

19 A No, sir.

20 Q You came into this situation back at the barracks;  
21 is that it?

22 A Yes, sir.

23 Q Did you interview Mr. Gordon at all?

24 A Yes, I did.

25 Q When you first interviewed him, did he tell you

1  
2 that h's name was Gordon?

3 A No, sir, he did not.

4 MR. CLARK: Objection. Mr. Gordon was present  
5 for cross-examination. I think that would have been the  
6 proper witness to bring that out through, as opposed to what  
7 Mr. Gordon might have told this witness.

8 THE COURT: Is this impeaching testimony of  
9 Gordon?

10 MR. GOLDMAN: Merely to show, if your Honor please,  
11 that he gave different stores to the officer.

12 THE COURT: But the witness wasn't questioned  
13 about that.

14 MR. GOLDMAN: Not on that phase of it, but I am  
15 getting into the other parts.

16 THE COURT: Well, you can question this witness  
17 as to something, if it relates to a prior statement you can  
18 question him about a statement the witness was confronted with.

19 MR. GOLDMAN: No other questions.

20 THE COURT: You are excused.

21 (Witness excused.)  
22  
23  
24  
25

1  
2 S H E I L A A N N T R A C Y, called as a witness by  
3 the Government, having first been duly sworn, testified  
4 as follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: Sheila Ann Tracy, 197 South Leonard  
7 Street, Waterbury.

8 DIRECT EXAMINATION

9 BY MR. CLARK:

10 Q Did you live in Waterbury in September of 1973?

11 A Yes.

12 Q Do you know Pat Daversa?

13 A Yes.

14 Q Do you see him in the courtroom?

15 A Yes.

16 Q Would you point to him, please?

17 A Right there.

18 Q Would you state what color shirt he is wearing?

19 A Red.

20 MR. CLARK: Will the record reflect that the  
21 witness has identified the defendant?

22 THE COURT: Yes.

23 Q Do you also know a David Gordon?

24 A Yes.

25 Q Did you know him during September of 1973?

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A Yes.

Q To your knowledge, where was Mr. Gordon living at that time?

A Pennsylvania was the last address I know.

Q Did you have occasion to see him at any time during September of 1973?

A Yes.

Q Do you recall approximately when in September that might have been?

A It's a couple of weeks after school started, around the 20th, 21st.

Q Where did you see Mr. Gordon?

A 24 North Barn Street, Waterbury, where I was staying.

Q Is that an apartment or a house?

A It's a house.

Q Were you present in the house on that day?

A Yes, I was.

Q Did you see Mr. Gordon at that address?

A Yes.

Q Did Mr. Gordon come to your house?

A He called first.

Q Do you recall what he said when he called you?

A Yes. He asked me where I was staying. He had a

1  
2 few things he wanted to bring up and show me, and I gave him  
3 the address.

4 MR. GOLDMAN: Would your Honor ask the witness to  
5 keep her voice up? I can't hear her.

6 Q As a result of that telephone call, did Mr. Gordon  
7 actually come to the house?

8 A Yes.

9 Q Did he have anyone with him at the time?

10 A Yes.

11 Q Do you know who that was?

12 A David Hanlon.

13 Q What, if anything, did Mr. Gordon discuss when  
14 he arrived at your house?

15 A Well, he said he had things to sell. He asked me  
16 if I knew anybody that would be interested, and I told him  
17 yes.

18 Q Did he say what he had to sell?

19 A Yes, a few clocks, antiques and guns.

20 Q What did you say in response to his question  
21 if you knew anyone that might be interested?

22 A Yes, that I would try and find someone.

23 Q Did you take any action to assist him?

24 A Yes.

25 Q What did you do?

1  
2 A I made a phone call to Pat and I made a phone  
3 call to Tom Carulla.

4 Q Was the first phone call to Mr. Daversa?

5 A Yes.

6 Q Approximately how long had you known him at this  
7 time?

8 A Quite a few years. I would say ten.

9 Q What did you tell Mr. Daversa when you called him  
10 on the phone?

11 A That I knew of things for sale: clocks, antiques,  
12 and I knew he bought them, and I asked him if he would be  
13 interested and he said yes, he would come up and see them.

14 Q At that time did you advise Mr. Daversa anything  
15 with respect to the guns in terms of their ownership?

16 A I don't remember. I could have. I don't remember  
17 saying anything over the phone about guns or anything.

18 Q At some point during that day, did Mr. Daversa  
19 come to your house?

20 A Yes.

21 Q Who was present at your house when he arrived?

22 A Myself, David Gordon, Dave Hanlon, Pearl, a  
23 couple of other people around.

24 Q Do you recall approximately the time of day that  
25 might have been?

1  
2 A Early afternoon.

3 Q What did Mr. Daversa do when he first arrived at  
4 your house?

5 A When he knocked on the door I just introduced him  
6 to Dave and the other Dave and went outside.

7 Q Who went outside?

8 A All of us started outside, Dave Hanlon, Dave  
9 Gordon, Pat and myself.

10 Q Did you hear any conversation at that time  
11 between Mr. Daversa and Mr. Gordon?

12 A Well, all I know is he was asking what kind of  
13 stuff, you know, that Dave had for sale.

14 Q Mr. Daversa asked that? asked that?

15 A Yes. And Dave told him that there were clocks,  
16 antiques, and guns, and that was about all I heard.

17 Q Did you observe Mr. Daversa look at the guns?

18 A No. I went back in the house.

19 Q Where was Mr. Gordon and Mr. Daversa and  
20 Mr. Hanlon at this time?

21 A Down by Dave's car in the yard.

22 Q In the yard at your house?

23 A Yes. Well, where I was staying, it was Pearl's  
24 house.

25 Q Did you observe him go out to the car?

1

2

A Yes.

3

4

Q Did you see them do anything when they got to the car?

5

A Dave was opening the trunk, that's all.

6

7

Q Did you observe any conversation in the area of the trunk?

8

A No.

9

10

Q Approximately how long were Mr. Gordon and

Mr. Daversa and Mr. Hanlon out there at the car?

11

A Pat was only at the house only about 20 minutes?

12

13

Q Did he come back to the interior of the house

subsequent to that conversation?

14

MR. GOLDMAN: Who?

15

MR. CLARK: Mr. Daversa.

16

A Yes.

17

Q Did he have any request of you at the time?

18

19

A He asked if he could borrow a blanket and I gave him one.

20

Q You gave him one?

21

A Yes.

22

MR. GOLDMAN: A what?

23

THE WITNESS: A blanket.

24

Q Did he say why he wanted the blanket?

25

A No.

Tracy-direct

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Q What did you see him do with it?

A Nothing. When I was coming back outside he -- Pat was leaving.

Q At any time during the conversation, did you advise Mr. Daversa as to the ownership of the guns?

A Yes.

Q When was that?

A When he came up to the -- when I introduced him, I said it's Dave's stuff, you know, he knows what he's got.

Q Did you indicate to him whether the guns were legitimate or stolen?

A Yes.

Q What did you tell him?

A That they were hot.

MR. GOLDMAN: They were what?

THE WITNESS: Hot.

Q Did you tell him where they came from, to your knowledge?

A I don't remember saying that they were from any special place. I don't remember if I said that or not, but I know I told him they were hot.

Q Mr. Daversa stayed about 20 minutes?

A Yes.

Q What occurred after he left?

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1  
2 A I made another phone call to Tommy Carulla.

3 Q What was the purpose of that telephone call?

4 A To ask him if he would be interested in buying  
5 anything, you know, just guns or clocks or, -- because I know  
6 he would -- they liked the clocks mostly.

7 Q Did you make any arrangements with Mr. Carulla  
8 with respect to the purchase of any of these items?

9 A Yes.

10 Q What arrangements did you make?

11 A After he got out of work he said he would meet us  
12 somewhere and I couldn't explain to him where the house was,  
13 he didn't know the area, so I told him on East Farm Street  
14 and Waterbury.

15 Q Who did you say would meet him there?

16 A Myself and the kid that had the things for sale.

17 Q Did you in fact go to that meeting?

18 A Yes.

19 Q Who went?

20 A Myself, Dave Gordon, and Dave Hanlon.

21 Q Did you introduce Mr. Gordon to Mr. Carulla?

22 A Yes.

23 Q Where did that occur?

24 A Right alongside the car.

25 Q Did Mr. Gordon have any transaction with

1  
2 Mr. Carulla at that time?

3 A I don't know. I sat back in the car, and Dave  
4 opened the trunk and I don't know what happened. I am pretty  
5 sure there was one, according to what was said.

6 Q Did you have occasion to see Mr. Carulla again  
7 that day?

8 A Yes.

9 Q Where was that?

10 A At his house.

11 Q Who was present at that meeting?

12 A Myself, Dave Gordon, and Dave Hanlon.

13 Q Where does Mr. Carulla live?

14 A Thomaston.

15 Q What occurred at that meeting?

16 A Well, Tommy bought another gun and that was it.  
17 We left.

18 Q From whom did he purchase the gun?

19 A Dave Gordon.

20 Q Do you have any idea how much he paid for it?

21 A No.

22 Q To your knowledge, Mr. Mr. Daversa engaged in the  
23 painting business?

24 A Yes.

25 Q He is?

A Yes.

Q In what city?

A Waterbury.

Q Do you know the name of his painting company,  
if any?

A B & D Paint.

Q Did Mr. Daversa have a connection with that  
company in September of 1973?

A Pardon?

Q Was Mr. Daversa connected with that company in  
September of 1973?

A Yes, I believe so.

MR. CLARK: No further questions.

CROSS-EXAMINATION

BY MR. GOLDMAN:

Q Are you married, Sheila?

A Divorced.

Q Do you have children?

A Three.

Q They live with you?

A Yes.

Q Were they living with you in September of 1973?

A Yes.

Q Do you remember a conversation you had with

Mr. Nadel?

A Yes.

Q Do you remember signing a statement for Mr. Nadel?

A Yes.

Q Showing you Court Exhibit 3501 for identification, it's a photocopy of a statement. Can you identify that as something in your handwriting?

A No.

Q Can you identify the signature on the last page?

A Yes.

Q Is that your signature?

A Yes.

Q Did you subscribe and swear to the truth of this statement?

A Yes.

Q Was everything in this statement true?

A Basically, yes.

Q Did you read the statement before you signed it?

A I skimmed through it. I didn't read it. I didn't really read the whole thing.

Q You didn't read the whole thing? What day did you sign this statement on, Sheila?

A I don't remember the --

THE COURT: Excuse me. Is there some reason to

1  
2 use her first name?

3 MR. GOLDMAN: No, your Honor.

4 THE COURT: Absent of some special consideration --

5 MR. GOLDMAN: I am sorry.

6 Q Miss Tracy, what day was this paper signed on?

7 A In January. I don't remember the exact date.

8 Q Would that be January of 1974?

9 A Yes.

10 Q That was several months after this incident that  
11 you have related to us, wasn't it?

12 A Yes.

13 Q And did you have occasion to meet with Agent  
14 Nadel on occasions prior to signing this statement?

15 A You mean before?

16 Q Yes.

17 A No.

18 Q January 17th, the day that you signed this, was  
19 the first time that you met with Agent Nadel?

20 A Yes.

21 Q Where did you sign this statement?

22 A It was at the Probation Office on Field Street  
23 in Waterbury.

24 Q And he met you there?

25 A Yes.

Q How long did you talk?

A An hour, two hours. I don't remember.

Q Did you agree to sign it immediately?

A No, not immediately.

Q Did you refuse at first?

A I just wanted to know what was going on. I don't know if I actually refused. I just --

Q Did Agent Nadel make any statement to you regarding what would happen if you wouldn't sign this statement?

A That's a hard question to answer.

Q It just calls for a yes or no.

A If you mean threats or anything like that, it would be no.

Q Do you remember coming to my office some time in November of 1974?

A Yes.

Q Do you remember telling me about this statement?

A Yes.

Q Do you remember telling me that Agent Nadel had questioned you for several hours?

A I don't know if I said several hours.

Q Did you say a couple of hours?

A Maybe.

Q Did you tell me that you had never read it?

1  
2 MR. CLARK: I think I object to an extended  
3 colloquy along these lines. Counsel is putting himself in  
4 the position of the witness.

5 MR. GOLDMAN: I may very well have to testify,  
6 your Honor, and I have corroborating evidence for what I am  
7 asking.

8 THE COURT: I am not sure what the objection is.  
9 If it becomes necessary for Mr. Goldman to testify, that's  
10 another problem and we'll deal with it.

11 MR. CLARK: At this point counsel seems to be  
12 placing his own credibility in opposition to the witness and  
13 I don't think that's proper for counsel at this point.

14 MR. GOLDMAN: I am not placing my credibiliity.  
15 I am asking her what she told me at that interview.

16 THE COURT: So far there has been no indication  
17 that any -- of any denial of what counsel is asking about.  
18 If a conflict develops, then how to deal with it is another  
19 problem.

20 MR. GOLDMAN: May I have the last question read?

21 (Question read.)

22 A Yes, I guess I did.

23 Q Did anybody tell you that if you didn't sign  
24 this statement you might lose your kids and go to jail?

25 A I said that first.

Q You said that first?

A Yes.

Q To whom?

A I brought that up first.

Q You made that statement, didn't you?

A Yes.

Q Was that true?

A If I get in trouble --

THE COURT: You made what statement? You said you would lose your kids if you didn't sign the statement?

A No, I said that if I get in trouble for this, I would lose my kids.

Q That was not told to you, someone didn't say that to you?

A Well, I was told that if I went to jail I would lose my kids, that's --

Q Were you told if you didn't sign the statement, you would lose your kids?

A Oh, no.

Q You didn't tell me that?

A No, I don't remember. You're talking about a year ago, a year and some --

Q I am talking about last November.

A All right. Last November even.

1  
2 Q Did anybody say to you that if you didn't make a  
3 statement you would be charged with four charges, such as har-  
4 boring a fugitive, aiding and abetting, sale of guns and so  
5 forth?

6 A I could be charged, not I would be.

7 Q Was that said to you by somebody that you could  
8 be charged with those things?

9 A I could be charged, yes.

10 Q Who said that to you?

11 A I don't remember who it was.

12 Q Was it Agent Nadel?

13 A I don't remember.

14 Q Some investigating officer said that to you?

15 A Yes.

16 Q As a result of that, did you feel that if you  
17 didn't sign this statement you would then be charged, was  
18 that your understanding?

19 A My whole understanding was that if I didn't sign  
20 that statement I would be charged, because I was involved.

21 Q Were you involved?

22 A Yes.

23 Q How were you involved?

24 A I was just involved.

25 Q How?

1  
2 A I knew what was going on.

3 Q What I am trying to find out, Miss Tracy, is  
4 whether or not you signed the statement because you felt that  
5 if you didn't sign the statement, you would be charged with  
6 various charges?

7 A Yes.

8 Q And that if you didn't sign the statement you  
9 stood a chance of losing your children if you had to go to  
10 jail?

11 A Yes.

12 Q And with those thoughts in mind, that's when you  
13 signed the statement, is that not so?

14 A Yes.

15 Q How long have you known Mr. Daversa?

16 A I would say ten years, maybe more.

17 Q How do you know him?

18 A Through the family.

19 Q He used to go out with your aunt, didn't he?

20 A Yes, years ago.

21 Q In your statement that you signed you said that  
22 you told Pat the stuff was hot, and I think you testified to  
23 that today.

24 A Yes.

25 Q Do you recall in November telling me that you

1  
2 didn't know if it was hot, it was stolen?

3 A I probably -- I don't even remember. You're  
4 asking me things that -- my meeting with you meant nothing.  
5 nothing.

6 Q If you don't remember, you don't remember.

7 I am asking you, do you remember telling me in  
8 November that you didn't know yourself whether the merchandise  
9 was stolen?

10 A No.

11 Q You don't remember saying that?

12 A No.

13 Q Is it possible that you did say that?

14 A I don't know.

15 Q Did you tell Mr. Daversa that the merchandise  
16 was stolen?

17 A Yes, I believe I did.

18 Q Do you recall telling me in November that you  
19 didn't tell Mr. Daversa that it was stolen?

20 A No.

21 Q You don't recall that?

22 A I don't remember half our conversation.

23 Q When Mr. Daversa came to your house, did you  
24 meet in the house?

25 A At the door.

Q Did he come into the house?

A He was on a closed-in porch.

Q Is that part of the house?

A Yes.

Q And then you went out on the street with  
Mr. Gordon, Mr. Hanlon, --

A Not on the street; in the driveway, in the yard.

Q Outside the house?

A Yes.

Q Do you recall telling me that you met in the house  
and not on the street or outside the house?

A That's what I just said. At the door, a closed-in  
porch.

Q That you met in the house rather --

A Right.

Q That you didn't go out on the sidewalk or outside  
the house?

A I remember saying we didn't go out on the sidewalk.

Q And that you met in the house?

A We met in the house when he came up.

Q And that the transaction that you talked about  
took place in the house or on the sidewalk?

A In the yard.

Q That's your yard, or the yard of the house that

1  
2 you were living in?

3 A Right.

4 Q Did you see Mr. Daversa buy any guns?

5 A No.

6 Q You did not?

7 A No.

8 Q How long did you stay outside?

9 A I don't know. I couldn't even say how long in  
10 minutes.

11 Q You didn't see him buy anything?

12 A No.

13 Q Do you remember telling me that if he had  
14 purchased something you would have known it?

15 A Yes, I remember that.

16 Q Do you also recall indicating that all Mr. Daversa  
17 was interested in was antiques?

18 A I recall saying that I knew he was interested in  
19 antiques.

20 Q Did you participate in any conversation between  
21 Mr. Daversa and Mr. Gordon?

22 A Not really.

23 Q Where did Mr. Daversa meet Mr. Gordon and  
24 Mr. Hanlon?

25 A At the door.

Q At the door of your house?

A Or on the porch, same difference.

Q They didn't meet on the street, did they?

A No.

Q In the statement that you gave, if I can find the exact spot, just look at the first paragraph on the second page. Did you tell the agents that Daversa met Gordon and Hanlon on the street?

A That's what the statement says.

Q Did you tell us they met at the door?

A Yes.

Q Did you, in that statement, say further that after meeting outside your house you went into the house?

A That's what it says.

Q Didn't you testify here that you went outside with these three men?

A Yes.

Q And that you stayed there a while and then you went back in the house?

A I didn't say I stayed there a while.

Q Didn't you testify previously that all of you went outside, you and Mr. Daversa and Mr. Gordon and Mr. Hanlon?

A Yes.

Q How long did you stay outside?

1  
2 A Long enough to walk down the stairs to the porch  
3 and back up.

4 Q So you never went out to any car?

5 A I never -- no, I didn't go near the car.

6 Q Could you see Mr. Gordon's car from your house?

7 A Yes.

8 Q And you say that you saw Mr. Gordon open the  
9 trunk of the car?

10 A Yes.

11 Q Is that right?

12 A Yes.

13 Q And then did he close the trunk of the car?

14 A I don't remember seeing that.

15 Q Is it your testimony, Miss Tracy, that you were  
16 only questioned on one occasion by the special agent?

17 A Yes.

18 Q Did you not indicate previously to me that these  
19 people came every day where you worked to ask questions of you?

20 A No, not to ask me.

21 Q Did they come to the place where you worked?

22 A Yes.

23 Q Did they talk to you on those occasions?

24 A Yes.

25 Q How many times did they come to your place of

employment?

A I don't know. A number of times.

Q Why do you say that you only met with them on one occasion?

A I was only questioned on this particular case on one occasion.

Q What did they come to talk to you about at work on the number of occasions that they did come?

A Well, since I was -- I made a statement. I was automatically told that I could have protection, so they made sure I was all right.

Q Came by several times to see if you were all right?

A Right.

Q You don't remember telling me that they drove you to the breaking point?

A Yes, because they were around me every day. It was just bothering me, the whole thing.

Q How did they bother you?

A I didn't say they. This whole case was bothering me, it was --

Q The whole case was bothering you?

A Yes.

Q The fact that you were visited regularly, that wasn't bothering you?

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A Of course it did. I wasn't used to that.

Q What was it that was driving you to the breaking point?

A Everything.

Q What do you mean by "everything"?

A Everything. Having to make a statement -- being involved.

Q You were involved?

A I found that out quick.

Q In the statement you say that you made it without being promised any reward or immunity?

A I wasn't promised anything.

Q You weren't promised anything?

A Not when I made this statement.

Q Generally, were you promised anything?

A Generally -- I don't know.

Q After you made the statement, were you promised anything?

A I got no written promises from no one.

Q I don't care if they were in writing. What kind of promises were made to you?

A Well, that I would be granted immunity.

Q You would be granted immunity?

A Yes.

Q That you would not be prosecuted?

A Yes.

Q That you would not be involved any more if you came into court and testified?

A I didn't know if I wouldn't be involved any more, nobody ever said that.

Q But you would be granted immunity?

A Yes.

Q In your mind that meant you wouldn't be involved any more, didn't it?

A I don't know what it meant in my mind at the time.

Q What do you think it meant?

A I guess maybe it did mean that.

Q It meant you wouldn't stand a chance of losing your children that you were afraid of, didn't it mean that in your mind?

A No, because all through this I felt I still stand a chance of losing my children.

Q You still feel that way?

A Yes.

Q Why?

A I am in court. I am involved.

Q But you tell us you have been granted immunity.

A I don't know that. I don't have it in writing.

Q What does immunity mean to you, Miss Tracy?

A Nothing, unless it's in writing.

Q Is that what you were told?

A No, that's the way I feel. I think.

Q You feel that unless it's in writing it wasn't worth anything?

A Right.

Q That they could still charge you with something; is that right?

A Yes.

Q What were you to do for that immunity?

A Just tell the truth.

Q And have you told the truth today?

A To the best I can remember, yes.

Q I am going to ask you again then, do you know of your own knowledge or can you tell us now, whether or not you told Mr. Daversa at any time that the guns supposedly involved in this situation were stolen?

MR. CLARK: Objection, your Honor. The witness answered that at least two or three times.

THE COURT: Overruled. You can answer the question.

A Yes, I told him they were hot.

Q And you deny that you told me to the contrary; is

1  
2 that right?

3 A I didn't say I deny anything. I don't remember --

4 Q You don't remember the conversation you had with  
5 me?

6 A My conversation with you meant nothing, you were  
7 Pat's lawyer, not mine.

8 Q Beg your pardon?

9 A You were Pat's lawyer, not mine.

10 Q That's right. You came in voluntarily to see me,  
11 didn't you?

12 A I was asked to come in and I came in.

13 Q Who came in with you?

14 A Pat and Michael Druan.

15 Q Druan?

16 A Yes.

17 Q Was he your uncle?

18 A At one time.

19 Q He was married to your aunt?

20 A At one time.

21 Q He was present when you talked to me?

22 A Yes.

23 Q And so was Mr. Daversa present when you talked  
24 to me?

25 A Yes.

1  
2 Q But you do remember telling me that if he had  
3 purchased anything you would have known it?

4 A Yes.

5 Q You didn't see him purchase anything?

6 A I didn't.

7 REDIRECT EXAMINATION

8 BY MR. CLARK:

9 Q Where did this conversation take place between  
10 you and Mr. Goldman?

11 A At his office.

12 Q And Mr. Daversa was there?

13 A Yes.

14 Q Was Mr. Daversa in the same room when he was  
15 asking you these questions?

16 A Yes.

17 Q Was Mr. Daversa able to hear your answers?

18 A Yes, Mr. Daversa did.

19 Q Mr. Daversa had brought you down there?

20 A Yes.

21 Q Prior to, that is before you had that meeting  
22 with Mr. Goldman, had you ever had a conversation with  
23 Mr. Daversa about the statement that you had given?

24 A Not about the statement, but about meeting up  
25 with the agents, you know, that's what I said --

1  
2 Q Do you recall what Mr. Daversa said in that con-  
3 versation?

4 A Yes.

5 Q What did he say?

6 A He told me if I was smart I would just deny every-  
7 ting.

8 Q Did he make any statement about what he was going  
9 to do?

10 A That he will deny everything.

11 Q At the time that you spoke to Agent Nadel on the  
12 16th of January and signed a statement, did anybody make any  
13 suggestion to you as to what you should say in that statement?

14 A No, no.

15 Q Did anyone at any time ever indicate what you  
16 should testify to?

17 A No.

18 Q Is everything you testified to what you know of  
19 your own knowledge?

20 A To the best of my memory.

21 Q Has everything you testified to been the truth?

22 A To the -- the best I can remember.

23 Q Has anybody ever told you to fabricate anything,  
24 to make up any stories about this?

25 A No, just when I went to see Pat's lawyer, I was

1  
2 scared when I went there, because I didn't want to elaborate  
3 on anything to him. Pat was sitting there. Just Pat was  
4 a friend and I didn't want to do nothing, you know, I didn't  
5 even want to talk.

6 MR. CLARK: No further questions.

7 RECROSS EXAMINATION

8 BY MR. GOLDMAN:

9 Q Why did you come to my office, Miss Tracy?

10 A Because I was asked to.

11 Q Nobody forced you there, did they?

12 A No.

13 Q Is it my understanding that if Mr. Daversa had  
14 not been present on that occasion, what you told me would  
15 have been different?

16 A It might have been.

17 Q How about the fact that your uncle was present?

18 A That, too.

19 Q In other words, if no one else had been there but  
20 you and I, your statement might have been different?

21 A It might have been.

22 Q Was what you told me on that occasion the truth  
23 or not?

24 A No, not all of it.

25 Q Did I ask you if you would sign a statement as

1  
2 to what you had told me?

3 A No, I don't remember.

4 Q Are you related to Mr. Gordon or Mr. Hanlon?

5 A No.

6 Q Both friends of yours?

7 A Yes. Not both. One is my friend.

8 Q Which one?

9 A Dave Gordon.

10 Q Was there an occasion that you were living with  
11 Mr. Hanlon?

12 A Yes, there was. I wasn't living with him  
13 personally, if that's what you're trying to say.

14 Q You tell me. I don't want to put words in your  
15 mouth. What were the circumstances?

16 A He was boarding a room in the apartment I had.

17 MR. GOLDMAN: That's all.

18 MR. CLARK: No further questions.

19 THE COURT: You are excused.

20 (Witness excused.)

III  
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1  
2 J O H N A. B E N E D I C T, called as a witness by the  
3 Government, having first been duly sworn, testified as  
4 follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: John A. Benedict, New Providence,  
7 R.D. 1, Pennsylvania

8 DIRECT EXAMINATION

9 BY MR. CLARK:

10 Q Mr. Benedict, what city is New Providence near  
11 in Pennsylvania?

12 A Ten miles south of Lancaster, Pennsylvania.

13 Q Did you live there in September 1973?

14 A Yes, sir.

15 Q Do you have with you a piece of paper that you  
16 made at my request earlier today?

17 A Yes, sir.

18 Q Would you hand that to me, please.

19 During the month of September 1973, did anything  
20 unusual occur to your house?

21 A Yes, sir. My home was burglarized.

22 Q What date was that?

23 A September 18, 1973.

24 Q Do you recall some of the items that were taken  
25 from your home?

1  
2 A Yes, sir. I had three shotguns -- four shotguns,  
3 two rifles, and one pistol stolen and other miscellaneous  
4 items?

5 Q Did you prepare a list of the weapons?

6 A Yes, sir. That was a list I gave you.

7 Q Did you describe them by make and model and serial  
8 number when you had it?

9 A Right, sir.

10 Q I show you Exhibit 5 and ask you if that is an  
11 inventory of weapons stolen from your home?

12 A Yes, sir. That's it.

13 MR. CLARK: I show counsel Government 5 for  
14 identification.

15 MR. GOLDMAN: No objection.

16 MR. CLARK: I offer it as a full exhibit.

17 (Government Exhibit 5 for identification  
18 received in evidence.)

19 Q Mr. Benedict, I show you these two items which  
20 have been marked Government Exhibits 6 and 7 for identifi-  
21 cation and ask you if you recognize the items.

22 A Yes, sir. They are both my guns.

23 Q Did you have the serial numbers of any of these  
24 weapons reported prior to their theft?

25 A Yes, sir. The model 12, 16-gauge Winchester

1  
2 that you have in your hand, that one there, the shotgun.

3 Q This item?

4 A Yes, sir.

5 Q Please read the serial number on there.

6 A 1719264.

7 Q Did you have that?

8 A It's right here on my paper.

9 Q Is that how you're able to identify this weapon  
10 as your gun?

11 A Right, sir.

12 Q I show you this item and ask how you identify  
13 that?

14 A That one I didn't have the serial number to it.  
15 It was a later one I bought and I didn't have it with my list,  
16 but I can identify all items that on the gun.

17 Q Such as?

18 A The Bushnell scope two and a half to eight  
19 scope, the iron side mount, Uncle Mike swivels for the carrying  
20 strap.

21 Q Point to what you call the Uncle Mike.

22 A These quick attachable swivels, and that's on here  
23 and also back here.

24 Q Is that item described as to make and model?

25 A Yes, Remington Model 76223 rifle.

Q There were a total of how many guns that were taken from your home?

A Beg your pardon?

Q What was the total of weapons that were taken from your home?

A Four shotguns, two rifles and one pistol.

Q To your knowledge, were those weapons in working order at the time they were taken?

A All of them were. I had used them.

Q Had you fired them recently?

A Yes, in September I will use a couple of rifles for groundhogging and shotguns for target practice, shooting clay birds.

MR. CLARK: No further questions.

CROSS-EXAMINATION

BY MR. GOLDMAN:

Q You're a hunter, Mr. Benedict?

A Yes, sir.

Q Were these all the guns that you owned, the ones that were taken? Were those all the guns that you owned?

A No, sir. They left me one 12-gauge single barrel.

Q You don't know Mr. Daversa, do you?

A No, sir.

MR. GOLDMAN: No further questions.

(Witness excused.)

1  
2 D A V I D C O N W A Y H A N L O N, called as a witness  
3 by the Government, having first been duly sworn,  
4 testified as follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: David Conway Hanlon, H-a-n-l-o-n,  
7 69 Ridge Street, Waterbury.

8 DIRECT EXAMINATION

9 BY MR. CLARK:

10 Q Are you acquainted with David Gordon?

11 A Yes, I am.

12 Q Do you also know Sheila Tracy?

13 A Yes, I do.

14 Q Directing your attention to September of 1973,  
15 where were you living at that time?

16 A I was living on South Ann Street in Lancaster,  
17 Pennsylvania.

18 Q Did you know Mr. Gordon at that time?

19 A Yes, I did.

20 Q Did he live in the same area?

21 A Yes. He lived in the same house.

22 Q During the month of September of 1973, did you have  
23 occasion at any time to make a trip to the State of  
24 Connecticut?

25 A Yes, I did.

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Q Do you recall approximately when during September that was?

A The latter part of September, around the 20th or so, 21st.

Q How did you get to Connecticut on that day?

A Well, I had had some problems with my car and I had left the job down in Pennsylvania and I was looking to come up here for work and Davey had persuaded me to take a ride up with him.

Q Davey who?

A Gordon.

Q So you rode up in Mr. Gordon's car?

A That's right.

Q Anyone else with you?

A No.. There was no one with us.

Q What kind of a car did Mr. Gordon have at that time?

A It was a black bottom Cadillac. I believe it was an Executive, white top, vinyl top.

Q Where in Connecticut did you go when you arrived here?

A We come up and we came to Waterbury on Hill Street.

Q Do you have any recollection of what approximate time of day you might have arrived in Waterbury?

1  
2 A It was approximately 1:00 or 2:00 o'clock in the  
3 morning.

4 Q You were with Mr. Gordon at that time?

5 A Right.

6 Q What did you do when you arrived in Waterbury?

7 A Well, he said that we could stay at his friend's  
8 house, he had different bunkers for the night.

9 Q Stayed overnight in Waterbury?

10 A Right.

11 Q What did you do the next morning?

12 A Well, we slept fairly late, we got up around 9:00,  
13 9:30, I guess, and had coffee and then we went up to this  
14 woman's house by the name of Pearl, I don't know her last name.

15 Q Where is that house located?

16 A A little farther more or less up -- you go up  
17 Hill Street and take a left and then a right.

18 Q In the City of Waterbury?

19 A Yes. About maybe five blocks away, if that.

20 Q Who did you go there with?

21 A Davey Gordon.

22 Q Did you meet anyone at this house?

23 A Yes. I met Pearl, and Sheila Tracy.

24 Q To your knowledge, were there any discussions  
25 between Mr. Gordon and Miss Tracy regarding any items for sale?

1  
2 A Yes, there was a discussion. David Gordon had  
3 told her that he had some stolen clocks, guns, and other items  
4 that he was looking to sell.

5 Q Did he make any request of her at that time?

6 A He asked her if she knew of any place he could  
7 sell this stuff and he also mentioned a few names to her.

8 Q As a result of that conversation, did Miss Tracy  
9 do anything?

10 A Yes. She made a couple of phone calls.

11 Q Did you hear her identify by name any of the  
12 parties that she called?

13 A Well, she called one place and she asked Pat if  
14 it was okay to talk.

15 Q Did you hear Miss Tracy engage in a discussion  
16 at that time regarding items for sale?

17 A Well, she more or less said that she had some stuff  
18 that he might be interested in and he said that --

19 Q Well, just what you heard Miss Tracy say.

20 A After she had hung up she had said --

21 Q Just what you heard Miss Tracy say on the  
22 telephone to the party.

23 A I mean, she made -- she made it known that in a  
24 way that he couldn't talk right at that present time, that  
25 they had to get in touch a little later.

Q Was there another telephone call about the same topic?

A Yes. I do believe it was him that called back and then she told him that she had some fellows from out of state to -- that had some merchandise that --

Q Did she mention what kind of merchandise?

A I don't think so at that particular time.

Q Did she mention anything about whether the items were stolen or not?

A Yes. She did mention that they were stolen.

Q As a result of that phone call at some time during that day did anyone come to the house?

A Yes.

Q Approximately when was that?

A I would say approximately around 1:00 o'clock.

Q Did that person come right up to the house?

A Came up the driveway and Sheila went out and met him and brought him into the house.

Q I will ask you to look around the courtroom and state whether at this time you see anyone in the courtroom you recognize as that person?

A There is a man sitting over there with a red shirt and brown suit that looks very familiar.

Q This gentleman?

1  
2 A That's correct.

3 MR. CLARK: May the record reflect that the  
4 witness has indicated the defendant, Daversa?

5 THE COURT: Yes.

6 Q Do you recall who, if anyone, that person spoke to  
7 when he first arrived at the house?

8 A He spoke to Sheila first and then it more or less  
9 broke into a conversation with Davey as to what he had for  
10 merchandise to sell.

11 Q David Gordon?

12 A Right, David Gordon.

13 Q And did you hear that conversation?

14 A Yes, I was present during the conversation.

15 Q Do you recall what Mr. Gordon said and what  
16 Mr. Daversa said in response to him?

17 A Well, I had heard that Davey told him that he had  
18 some clocks and some carvings, an oil lamp and some other  
19 things and some guns and he said that he wasn't too interested  
20 in the clocks or anything, but he would be interested in the  
21 guns.

22 Q Did Mr. Gordon at any time indicat where the guns  
23 came from?

24 A All he had indicated was that they were from out of  
25 state. I can't really recollect him saying, you know, that they

1  
2 were from like Pennsylvania or any particular place like that  
3 other than they were from out of state.

4 Q As a result of that conversation did Mr. Gordon  
5 and Mr. Daversa do anything?

6 A Yes. They went out to the car to look at the guns.

7 Q Where was the car located at that time?

8 A It was out at the top of the driveway at that time.

9 Q Was that Mr. Gordon's car?

10 A Yes, that was Mr. Gordon's car.

11 Q Did you accompany them out to the car?

12 A Well, almost immediately after, yes. I went out  
13 with Sheila Tracy.

14 Q Was there any discussion about what you were to do  
15 outside of the car?

16 A I was more or less to watch and see nobody coming  
17 walking up the driveway or anything like that.

18 Q Who asked you to do that?

19 A Davey had asked me to do this.

20 Q Was Mr. Daversa present when Mr. Gordon asked that?

21 A No, he was not.

22 Q Where was he at that time?

23 A This was prior to him arriving or anything.

24 Q Prior to his arriving?

25 A Yes, if we went out for me to more or less go out

and watch and see nobody come up the driveway or anything.

Q Now, where were Mr. Gordon and Mr. Daversa at that time?

MR. GOLDMAN: At what time?

Q At the time that you were out at the car.

A At the time I went out to the car?

Q That's right.

A Well, they had gone out just ahead of me like.

Q Was there a time when all three of you were present at the automobile?

A There was a time where four of us were present at the automobile.

Q Who were those four?

A There was Sheila Tracy, Davey Gordon, myself, and this man here.

Q At any time did Mr. Gordon display any of the items that he had spoken about to Mr. Daversa?

A Would you please repeat that?

Q At any time did Mr. Gordon display any of these items or show any of these items that they had been discussing, to Mr. Daversa?

A Yes. Davey opened up the trunk and showed him the rifles and ammunition, showed him the clocks and everything more or less that he had.

1  
2 Q Was there a discussion at that point between  
3 Mr. Gordon and Mr. Daversa?

4 A Yes. They discussed prices of these guns and what-  
5 not at that time.

6 Q Do you recall who said what?

7 A Well, the conversation more or less went as the  
8 shotguns, he wasn't too interested in, because he could only  
9 sell them for 30 or \$40, whereas rifles and hand guns were of  
10 more value to him.

11 Q Who said that?

12 A I believe this fellow here.

13 Q Was there a point when an agreement was reached  
14 and a sale of the weapons was made?

15 A Yes. They had agreed on, I do believe, \$130 for  
16 two guns.

17 Q Did you see Mr. Daversa give Mr. Gordon any money?

18 A No, I didn't. My attention was more or less  
19 distracted from a noise I had heard and I was more or less  
20 paying attention to the noise. I had seen him take his wallet  
21 out and start counting money.

22 Q That was in Mr. Gordon's presence?

23 A Yes, that was in Mr. Gordon's presence.

24 Q Did you see any weapons transferred from the trunk  
25 of Mr. Gordon's car into Mr. Daversa's control.

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1  
2 A Yes. We had to get a blanket and wrap up two  
3 rifles and ammunition.

4 Q Where did you get the blanket?

5 A Miss Sheila Tracy had gone in the house to get a  
6 blanket.

7 Q After this sale took place, was there any further  
8 discussion that you heard between Mr. Gordon and Mr. Daversa?

9 A Yes. Mr. Daversa wanted hand guns, so therefore,  
10 Davey had told him that he could come up with hand guns and that  
11 he would bring some hand guns up within the next week or so.

12 Q Mr. Gordon said that to Mr. Daversa?

13 A Right.

14 Q Did you hear Mr. Daversa say anything further to  
15 Mr. Gordon about the future?

16 A Yes. That he would be able to offer cash because  
17 Davey stipulated that he didn't want any checks of any type.

18 Q Anything else?

19 A And that he could get in touch with Sehila, Davey  
20 could, to get in touch with him.

21 Q And that was to be on the next trip up?

22 A Right.

23 Q Was there any further discussion at all about this  
24 next delivery of weapons?

25 A Just that Davey had plans more or less that he would

1  
2 would be back up within the week.

3 Q Did he indicate where he would be back up from?

4 A No, he hadn't really indicated to my knowledge,  
5 just from where.

6 Q Did he indicate it would have been from out of  
7 state?

8 A Yes. ~~He told that to Mr. Daversa~~

9 Q He told that to Mr. Daversa?

10 A Yes.

11 Q What occurred next after this conversation?

12 A Well, just that he had left.

13 Q Mr. Daversa left?

14 A Yes. He left.

15 Q Did he take the guns with him that he got from  
16 Mr. Gordon?

17 A Yes. We all went down to a white Oldsmobile and  
18 he opened up the trunk and put them into the trunk.

19 Q Did he drive off with them?

20 A Yes.

21 Q Did Mr. Gordon remain there?

22 A Yes.

23 Q Did you also remain there?

24 A Yes.

25 Q What did you do next?

1  
2 A We went back up into the house. We went to see  
3 another fellow about selling guns.

4 Q How did you make arrangements for that?

5 A Sheila made a phone call and got in touch with this  
6 fellow to meet us up off North Main Street.

7 Q In Waterbury?

8 A In Waterbury.

9 Q Did you in fact go to that meeting?

10 A Yes, I did go to the meeting with him.

11 Q Who went on that?

12 A There was Sheila, Davey, Gordon, and myself.

13 Q Did you in fact meet another man?

14 A Yes. We met another man. He was driving a blue  
15 Ford pick-up truck.

16 Q Where did the meeting occur, not necessarily the  
17 address, but was it inside or outside?

18 A It was outside on the street.

19 Q What occurred at that time?

20 A Well, Sheila introduced Davey to him and Davey  
21 brought him back to the Cadillac and showed him the guns that  
22 he had and he -- this fellow was interested in a shotgun which  
23 he ended up buying from Davey.

24 Q You were present at that sale?

25 A Right.

Q Was there any discussion at that time as to whether that individual would be interested in any more guns?

A Yes. He had said that he was interested in another gun that Davey had, but he wasn't sure if he had enough money to pay for it, that he had to get in touch with him.

Q Was there a further meeting with respect to that?

A Yes. There was a further meeting. We had gone up to the fellow's house later that night.

Q Who went to that meeting?

A Sheila Tracy, Davey Gordon, and myself.

Q You went to the man's home?

A Right.

Q Do you know what town that was in?

A Thomaston.

Q Thomaston, Connecticut?

A Right.

Q Was there any further transaction involving a fire-arm or gun that evening?

A Yes. The fellow had enough money to purchase the other rifle and he and his wife had taken a ball and cap gun and a couple of clocks and they didn't have all the money, so that it was agreed to that we would come back the next day to collect the rest of the money.

Q Did Mr. Gordon leave the gun there?

1  
2 A Yes, he did. He left the stuff there.

3 Q Do you recall what type of gun that was?

4 A I believe the first one he sold him was a regular  
5 shotgun and the second one was a rifle with a scope on it.  
6 I could be mistaken. It could have been vice-versa, which  
7 was sold first.

8 Q I show you these two exhibits for identification  
9 and ask if either of these or both of them appear similar to  
10 you to the items of weapons that Mr. Gordon sold to this man.

11 A Yes.

12 MR. GOLDMAN: If your Honor please, I have to  
13 object.

14 THE WITNESS: They look similar.

15 MR. GOLDMAN: I don't see that it is relevant as  
16 far as Mr. Daversa is concerned what he may have sold someone  
17 else. In other words, these guns or any other gun.

18 THE COURT: Gordon testified that he sold stolen  
19 guns and his testimony, to be linked up with these -- were  
20 these identified as stolen --

21 MR. CLARK: Mr. Benedict's home --

22 THE COURT: -- certainly offered to corroborate  
23 this statement that the batch of guns brought up from  
24 Pennsylvania were stolen.

25 Q You may answer that.

1  
2 A Yes, they do look very similar.

3 Q Both of them?

4 A Yes, both of them.

5 MR. CLARK: No further questions.

6 So the record may be clear, I showed the witness  
7 Government Exhibits 6 and 7 for identification.

8 CROSS-EXAMINATION

9 BY MR. GOLDMAN:

10 Q Mr. Hanlon, if I understand you correctly, you  
11 were living with Mr. Gordon in Pennsylvania prior to your  
12 trip here on approximately the 21st of September?

13 A Yes, I had been living at that house, right.

14 Q Were you aware of Mr. Gordon's activities in  
15 Pennsylvania at this time?

16 A Yes, I had been aware of what more or less had been  
17 going on.

18 Q That he had been taking guns or stealing guns down  
19 there?

20 A Well, I knew that he had been stealing stuff. I  
21 didn't know that it was guns at the particular time to start  
22 with. I found out later while living there that he was  
23 stealing guns, yes.

24 Q Did you know when you made the trip with him in  
25 September of 1973 that he was bringing some guns that he had

1  
2 stolen in Pennsylvania?

3 A Part-way up I asked him what he was bringing up.  
4 I knew he had some stolen stuff that he was bringing up and I  
5 asked him what he was bringing up, and he told me clocks, guns,  
6 and what-not.

7 Q You knew this merchandise was stolen?

8 A I knew that it was stolen, yes; from his say-so.

9 Q Where were you living on September 25th, the day  
10 that he was arrested?

11 A I was living at 260 South Ann Street in Lancaster.

12 Q As a matter of fact, was it not you, Mr. Hanlon,  
13 that called the police and gave them the information that led  
14 to his arrest?

15 A That's correct.

16 Q When you arrived on the 21st of September it was  
17 as I understand you, the following morning that you went to  
18 the place where Sheila Tracy was living; is that correct?

19 A That's correct.

20 Q Approximately, if you can tell us, how many guns  
21 did Mr. Gordon have with him on the occasion of that visit?

22 A I had seen about seven or eight guns. He had told  
23 me that he had come up, I believe, with about nine guns.

24 Q You saw at least seven or eight?

25 A That's right.

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Q When was the first time you saw these guns?

A The first time I saw these guns was when we stopped on Hill Street and we started getting some stuff out of the car.

Q Was that Friday evening when you arrived, or -- wout it be early Saturday morning?

A Well, early Saturday morning actually, yes.

Q That was the first time you saw the guns?

A Right.

Q And you had an opportunity to observe them and as I understand you to say, you thought there were about seven or eight guns?

A That's right, because there was other stuff in the trunk and in the back seat and everything.

Q The first sale that you know of or were present at, was that the one that you have testified to, involving Mr. Daversa?

A I do believe so.

Q In other words, no other sales had been made by Mr. Gordon at that point in time?

A No.

Q Of guns, I am talking about.

A Right. Not that I know of.

Q As far as you know, when that alleged sale was

made, all the guns that you had seen the previous evening or early morning were still in the car?

A Yes.

Q I believe it is your testimony that Mr. Daversa made a purchase of two of those guns that you saw.

A That's right.

Q Can you tell us of the seven or eight guns which you say you saw, how many of them were hand guns and how many of them were what is called long guns as opposed to say, a rifle or a shotgun?

A Most of them were rifles or shotguns.

Q In other words, most of the seven or eight guns were rifles or shotguns?

A Right.

Q Were there any hand guns?

A I do believe Davey had one hand gun. At that time he didn't really want to sell.

Q Was there any conversation while Mr. Daversa was there relative to that hand gun?

A I cannot honestly answer that if there was or not.

Q I believe you testified on your direct examination that Mr. Daversa wanted hand guns; is that right?

A There was a conversation about he wanted hand guns; that he could use hand guns to resell.

1  
2 Q But in spite of that, the sale that you say you  
3 saw did not involve hand guns, but involved two rifles?

4 A That's right.

5 Q When you say rifles, you are distinguishing them,  
6 I assume, from shotguns, or are you?

7 A I am not positive whether one of them may have  
8 been a shotgun or not. I do believe both of them were rifles,  
9 though.

10 Q Now, Mr. Hanlon, I think you indicated that the  
11 price that was supposedly paid for these two weapons was \$130;  
12 is that right?

13 A That's what I had heard them more or less come to  
14 an agreement on, which there was a little more bickering,  
15 because Davey wanted to sell the ammunition, too.

16 Q And if I were to tell you that Mr. Gordon said  
17 that the sale price was 3 to \$400, would you say that was an  
18 error?

19 A I would say that it might have been an error, yes.

20 Q If I tell you that Mr. Gordon indicated that there  
21 were three or four guns, would you also indicate that was not  
22 in accordance with your understanding that they were sold?

23  
24 A Yes, I would say that.

25 Q I believe you also said that the individual that

1  
2 you have identified as Mr. Daversa was driving a white auto-  
3 mobile; is that right?

4 A That's right.

5 Q And I believe you said it was an Oldsmobile; is  
6 that correct?

7 A I do believe it was an Oldsmobile.

8 Q But it was white?

9 A Well, whitish color; it could have been an off-  
10 white.

11 Q It could have been? It wasn't black? It wasn't  
12 silver, or gray, or anything like that?

13 A No.

14 Q If I understand you correctly, you only saw  
15 Mr. Daversa on this one occasion?

16 A That's correct.

17 Q And were you shown at some time during subsequent  
18 questioning by Government officials, some photographs?

19 A Yes, I was.

20 Q Do you recall whether or not you were shown any  
21 pictures or whether you made any statement about being able to  
22 identify Mr. Daversa from a photograph?

23 A I made the statement that I might not be able to  
24 recognize him in a photograph. I would rather identify him in  
25 person, because I felt as though I could identify him easier

1  
2 in person?

3 A And how did you identify Mr. Daversa, could you  
4 tell us now; what kind of a description did you give of him?

5 A I had given him a description of a couple. He is  
6 taller than me, I believe.

7 Q How tall are you?

8 A I am five foot seven.

9 A little heavier-set than myself, whitish-gray  
10 hair and between 45 and 50 years of age, I was stating.

11 Q You say that the description you gave that he had  
12 whitish-gray hair --

13 A Or gray hair, yes.

14 Q Which did you tell the officers?

15 A I think I had said just gray hair.

16 Q Did you also tell them that he was heavy-set?

17 A I think my words were medium-build. I am not  
18 absolutely positive there.

19 Q Showing you Court Exhibit 3511, can you tell me  
20 whether or not you can recognize that?

21 A Yes, this as a statement I made.

22 Q By the way, is this your signature on the second  
23 page of that statement?

24 A Yes, it is.

25 Q Did you not in that statement, sir, say that he

1  
2 was heavy-set?

3 A I might have.

4 Q Look at it, sir, and tell me if it's not a fact  
5 that you did say it.

6 A I can't seem to find it here. I don't read too  
7 well.

8 Q Do you read -- I don't mean to embarrass you.

9 A I do read, but not well. It would take me  
10 probably 20 minutes to go through that.

11 Yes, I did say heavy-set in the statement.

12 Q How many trips that you were aware of had  
13 Mr. Gordon made to Connecticut?

14 A Three trips to Connecticut.

15 Q Which, when you say three trips, and I am talking  
16 about trips with stolen merchandise, and I assume when you say  
17 three trips you're talking about trips with stolen merchandise  
18 also?

19 A Righ-.

20 Q The trip that you came with him, which trip was  
21 that, number one, two, or three?

22 A The second trip.

23 Q So, prior to the trip that you came, he had come  
24 once before; is that your understanding?

25 A Yes.

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Q With stolen merchandise?

A Yes.

Q And did you learn this from him?

A Yes, at a later date. It was his second trip up with stolen merchandise.

Q Now, do you recall a conversation that you had, Mr. Hanlon, where a tape recording was made of your statements?

A Yes, I do.

Q And was that about the 10th of October?

A I do believe so, yes.

MR. CLARK: Will counsel specify what year he is referring to?

MR. GOLDMAN: That would be October 10, 1973.

A Yes.

Q A little less than a month after you made the trip here with Mr. Gordon, or to Waterbury, I should say.

A Yes.

Q And do you remember telling them about some guns that were sold to a fellow that you met in Waterbury with this blue pick-up truck?

A Yes.

Q And that was the same individual who lived in Thomaston?

A That's correct.

1 Q And one gun was sold in Waterbury and another  
2 one was sold in Thomaston?  
3

4 A That's correct.

5 Q And did you indicate to the officers who were  
6 interviewing you at what point in time those two sales to the  
7 individual were made in relationship to the incident that you  
8 speak of with Mr. Daversa?

9 A Yes, I do believe so.

10 Q What was that?

11 A I can't completely remember right now just as to --

12 Q Did you tell them that sale to the gentleman in  
13 Waterbury was made prior to the sale to the -- the alleged  
14 sale to Mr. Daversa?

15 A No, I don't believe so.

16 Q Do you remember being asked the question whether  
17 or not Miss Tracy had made any connection for Gordon?

18 A Yes, I do remember being asked that question.

19 Q Do you remember your answer and you said yes, she  
20 did make some connection with David Gordon?

21 A For David Gordon, right.

22 Q And do you remember being asked what else happened  
23 then and that you told the investigating officers that you  
24 started off making a couple -- he said you said, "We started  
25 off, her making a couple of phone calls for him and she called

1  
2 this one fellow that we met in Waterbury that had the blue  
3 Ford pick-up truck."

4 A That I could have said, yes.

5 Q And didn't you indicate by that therefore, that  
6 that was prior to and not subsequent to the incident with  
7 Mr. Daversa?

8 THE COURT: Is your question -- did the use of the  
9 word "therefore" mean that --

10 MR. GOLDMAN: No, your Honor. He indicated.

11 "We started off, her making a couple of calls  
12 for him. And she called this one fellow we met in Waterbury,  
13 he had a blue pick-up truck, and Davey sold him one gun there."

14 Q Do you recall making that statement?

15 A I believe so.

16 Q By that, did you mean, Mr. Hanlon, did you mean  
17 that that incident was prior to this alleged sale to Mr. Daversa,  
18 or did you mean it was subsequent?

19 THE COURT: Certainly anything in the statement  
20 that indicates that it had any time reference --

21 MR. GOLDMAN: Yes, it indicates. "We started" --  
22 "She called this one fellow in Waterbury, who had the Ford  
23 pick-up truck," which would indicate that was the beginning.

24 THE COURT: Are you asking him about the call or  
25 the sale?

1  
2 MR. GOLDMAN: Yes.

3 A No. I had just made the statement that she made  
4 these calls. She had called the other fellow first and then  
5 the fellow with the blue Ford pick-up truck second.

6 Q So the first call, if I understand you correctly,  
7 you believe was made to Mr. Daversa?

8 A That's correct.

9 Q And the second call or a subsequent call apparently  
10 was made to the man with the Ford pick-up truck?

11 A Right. I may be putting it wrong in my wording  
12 there or something.

13 Q In describing the man who came to the house, being  
14 Sheila Tracy's place of abode, did you give any description  
15 as to his complexion?

16 A White.

17 Q Were you asked whether or not he was olive-  
18 complected, light-complected, or dark-complected?

19 A I do not think so. I am not positive.

20 Q Were you asked whether he was wearing glasses?

21 A Yes, there was a mention about glasses and I said  
22 I didn't know whether he was wearing glasses positively or not.

23 Q In other words, your testimony is you're not sure  
24 whether he was in fact wearing glasses when you saw him?

25 A That's right.

1  
2 Q Can you tell us, sir, how he was dressed at the  
3 time that you saw him?

4 A Regular more or less shirt, pants, you know.

5 Q More or less what?

6 A Shirt and pants.

7 Q Nothing special about it?

8 A Nothing special dress to it. He didn't have on  
9 a snazzy suit or something.

10 Q Didn't have on work clothes?

11 A They could have been work clothes.

12 Q Do I understand from your testimony, Mr. Hanlon,  
13 that Mr. Gordon had asked you prior to Mr. Daversa's arrival,  
14 to go outside?

15 A Well, he asked me prior to his arrival that when  
16 he came and he went outside with him, for me to go out and  
17 watch and see that nobody come up the driveway or anything,  
18 to let him know.

19 Q Did you in fact go outside?

20 A Yes, I did go outside.

21 Q Prior to his arrival?

22 A I think I might have gone out once or twice before  
23 he arrived, because from the time of the call until the time  
24 of his arrival, there was a lapse of time there.

25 Q Where were you precisely when he did arrive?

1  
2 A I do believe in the house, in the parlor.

3 Q In what room?

4 A In the parlor, I am not positive.

5 Q Who else was in the house at that time?

6 A There was Pearl, Sheila, and Davey Gordon.

7 Q Any children?

8 A Well, Pearl has a couple of children and Sheila  
9 has three.

10 Q They were all in the house?

11 A Some of them were outside, some were inside, you  
12 know.

13 Q And were all of you, regardless of what room it  
14 was, in the same room?

15 A I can't honestly answer that.

16 Q Was the door bell rung or was there a knock at the  
17 door, or how did whoever arrived announce their presence to you?

18 A I believe one of the kids more or less announced  
19 somebody was coming up the driveway.

20 Q What did you do at that point?

21 A Sheila went and met this person.

22 Q When Sheila went to meet this person, did she go  
23 outside of the apartment, outside of the rooms?

24 A Well, there was a front hallway there. I think  
25 she stepped out into that front hallway.

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Q At this point, were you with Mr. Gordon?

A Maybe I was. I can't completely picture it.  
I mean, it has been quite some time.

Q Would you tell us what happened next? Did you  
all then go outside or did Mr. Daversa come into the house  
and then all of you go outside?

A He came into the house and they discussed what  
Davey had for a bit.

Q And then --

A Then all of us went out.

Q After Mr. Daversa left, did Mr. Gordon complain  
to you about this sale that's supposed to have taken place?  
I am talking about this one involving Mr. Daversa.

A Yes, he did complain about it.

Q What was his complaint?

A His complaint was that he thought that he had  
missed another gun when he went back out to the car and checked  
things over. He wasn't positive, but --

Q Do you recall being asked whether or not you  
recalled any name that was used in describing the individual?

A Just when are you meaning to this?

Q When you were interviewed on -- again, I have to  
assume this is October 10th.

A No, I cannot recall whether or not they did ask

1  
2 me if there was a name used or not.

3 Q You were present, as I understand it, Mr. Hanlon,  
4 throughout all the conversation between Mr. Daversa and  
5 Mr. Gordon?

6 A Yes, so what? I might have been right next to  
7 them or I might have been a couple foot away or something  
8 like that. Yes.

9 Q You would have heard most of the statements or  
10 all of the conversation?

11 A Most of the conversation, right.

12 Q Do you recall any conversation in which Mr. Daversa  
13 is supposed to have told Mr. Gordon that he would buy all the  
14 guns he could get?

15 A I can remember him saying that he could use all the  
16 hand guns that Dave could bring him.

17 Q Nothing was said about not wanting pumps?

18 A No. I don't know. I know he wasn't interested in  
19 regular shotguns.

20 Q If Mr. Gordon had on this trip that you came with  
21 him, seven or eight guns, on this occasion and you say that  
22 he sold two to Mr. Daversa and you also say that he sold two  
23 to some gentleman in Thomaston --

24 A That's right.

25 Q What happned to the rest of the guns, sir?

1  
2 A I don't know completely, because I wasn't with  
3 Davey all the time.

4 Q When did you leave him?

5 A We came up Friday night and Saturday morning. It  
6 would be a Saturday night he dropped me off over by St. Mary's --  
7 Waterbury Hospital, to a friend's house and I stayed there for  
8 the night.

9 Q If I understand you correctly, you came up early  
10 Friday morning, would it be, or Saturday morning?

11 A We came up Friday during the day time. We did not  
12 reach there until about 1:00 or 2:00 o'clock Saturday morning  
13 actually.

14 Q This incident is supposed to have taken place on  
15 Saturday; is that right?

16 A That's right.

17 Q Was it the same day, Saturday, that the sale of the  
18 other two guns to this gentleman in Thomaston took place?

19 A That's right.

20 Q And you left Dave some time that day, later that  
21 day?

22 A That night, yes.

23 Q About what time?

24 A Maybe 10:00 or 10:30 that night.

25 Q You don't know where he went or what he did after

that; is that right?

A No, I don't.

Q After that you continued to remain in Waterbury?

A What do you mean?

Q After you and he separated.

A No. Sunday we got together and we went back up to Thomaston to collect the money for some of the goods that he had sold up to Thomaston, and then from there we went back to Waterbury and dropped Sheila off and stayed there for a little while and went back to Pennsylvania.

MR. GOLDMAN: I appreciate the fact and I don't want to intrude on the jury's time and the Court's time. I am not finished, and I want to know if you want me to conclude.

THE COURT: How much more do you anticipate?

MR. GOLDMAN: I am getting into the grand jury material now.

THE COURT: All right. We will suspend until tomorrow.

Ladies and gentlemen, you are excused until 10:00 o'clock tomorrow morning.

(Court adjourned at 5:00 o'clock.)

1  
2 D A V I D H A N L O N, resumed.

3 CONTINUED CROSS-EXAMINATION

4 BY MR. GOLDMAN:

5 MR. GOLDMAN: I wonder if it might be possible to  
6 have the last question and answer read.

7 (Last question and answer read.)

8 Q I think yesterday, Mr. Hanlon, you indicated that  
9 not having spent all of the remaining time with Mr. Gordon,  
10 you were unaware of what disposition was made of the remaining  
11 merchandise that he had?

12 A That's correct.

13 Q Do you recall we also talked yesterday about the  
14 interview that you had with Special agents on the 10th of  
15 October that was tape recorded?

16 A That's correct.

17 Q Do you recall telling the agent who was questioning  
18 you when he asked you the question, what happened to the other  
19 guns that you testified to him, or told him that the other  
20 guns the next day Davey brought them to somebody that worked  
21 at a gas station in Waterbury?

22 A That's correct, but that was just told to me. I  
23 was not with him or anything.

24 Q You were told then, what happened to the other  
25 guns?

1  
2 A Yes.

3 Q Did you also indicate, if I am not mistaken,  
4 yesterday that as far as you knew -- question withdrawn.

5 How many trips did you say altogether, Mr. Gordon  
6 had made to Connecticut?

7 A I said three.

8 Q And the one that you came on, I think you said,  
9 was number two?

10 A That's correct.

11 Q And whether or not you were aware of what happened  
12 on the first trip or had been told by Mr. Gordon what had  
13 happened on the first trip --

14 MR. CLARK: I object to that, your Honor - hearsay.

15 THE COURT: Is this claimed?

16 MR. GOLDMAN: He does make some reference to it in  
17 his tape recorded interview. It is claimed.

18 THE COURT: This witness does?

19 MR. GOLDMAN: Yes, your Honor.

20 THE COURT: As to something Gordon said to him?

21 MR. GOLDMAN: It is not indicated as to whether  
22 Gordon said it. He seems to be speaking of his own knowledge.

23 THE COURT: Well, you can probe it. It may well  
24 be admissible.

25 Q Would you answer the question?

1  
2 A Would you state it over again? I lost track of it.

3 Q Whether or not yu knew anything about the first  
4 trip that Mr. Gordon made to Connecticut?

5 A All I knew was that he had made a trip. That's  
6 primarily all, that he had made a trip with some stolen  
7 merchandise.

8 Q Did you know about what it consisted of, or how  
9 many items it consisted of?

10 A No. I knew nothing of what it consisted of or  
11 how many items or anything.

12 Q Again referring to your interview on October 10th,  
13 when you were asked the same question, "Do you know anything  
14 about the first trip that Gordon made with the guns?" did you  
15 not answer that, "Yes, he had come to Connecticut. I would  
16 say he had given four or five rifles to a person by the name  
17 of Jimmy, from what he had told me, and he had given this  
18 girl's father several hand guns"?

19 MR. CLARK: I would object to that. It's obviously  
20 what Gordon is telling him. He has no personal knowledge,  
21 he stated.

22 THE COURT: This is offered on his credibility.

23 MR. GOLDMAN: Yes, your Honor.

24 THE COURT: All right. You can answer that.

25 A I don't know right at the present time; I can't

completely remember if I did say this to them or not.

Q Do you remember saying to them that you were aware that he had given this girl's father several hand guns?

A Something to that effect, yes. I had heard from him that he had given some.

Q The second trip is the one you went on?

A That's correct.

Q Did you not tell the investigating officers on October 10th that the only thing you had omitted from your earlier part of that interview was -- the only thing you left out was Diane's father had also received some guns on the second trip?

A I think maybe I did say that to them in the statement. I am not positive if I did or not.

Q Was that true?

A I know Davey had mentioned something during the course of this time that he had given some guns to Diane's father.

Q That was on the second trip?

A I don't know if it was on the second trip or not.

Q Didn't you tell them that it was on the second trip?

A I cannot remember as to what it said in the statement that I had given.

1  
2 Q The statement -- not that you had given, sir, but  
3 the statement -- it was tape-recorded?

4 A Or the statement that was tape-recorded.

5 Q I am going to show you Court Exhibit 3511, which  
6 is a transcript, includes a transcript of that, and ask you  
7 if you will be good enough to read to yourself at least the  
8 questions and answers beginning at the bottom of Page 13  
9 and going on to the following page.

10 A Yes, I did make that statement to them in the  
11 tape recording at that time.

12 Q What I am asking you now is, was it true that you  
13 were aware of some other guns?

14 A This was told to me by Davey, that he had given  
15 these guns. I was not present or anything.

16 Q But it was on the second trip and not the first?

17 A That's correct.

18 Q Sir, yesterday, how many -- you said the total  
19 number of trips that he made to Connecticut was three?

20 A That's correct, that I knew of.

21 Q Do you recall testifying before the grand jury,  
22 Mr. Hanlon?

23 A Yes, I recall that, yes.

24 Q Would that have been on March 7th of 1974?

25 A Yes, I would say around there.

Q Do you recall being asked the question, in referring to Mr. Gordon:

"Did he make frequent trips to Connecticut during this period of time?"

Do you recall being asked that question?

A Yes, I think so.

Q Do you remember what your answer was at that time?

A No, I cannot remember.

Q Do you remember saying to the grand jury, "Well, it started to get to be sort of like a routine type thing, just about every weekend he was running up to Connecticut"?

A Something like that, yes.

Q And being asked whether or not he would bring stolen guns with him when he came to Connecticut; do you remember being asked that question?

A I think so. I am not positive.

Q And your answering that was his intention of coming up here?

A Yes. I think that was my answer.

Q So that instead of making three trips apparently he was making numerous trips?

A No. I have stated that he made three trips to my knowledge that he had brought stolen guns up, but he had also made some other trips which I don't know if he had

1  
2 brought stolen goods then or what. I had made this statement  
3 more or less out of, since I knew that he had made three  
4 trips up with stolen goods, I was assuming in some ways that  
5 he was bringing up stolen goods on other trips, too.

6 Q You were asked the question, "Would he bring  
7 stolen goods with him when he came to Connecticut," and you  
8 answered that, "Right, that was his intention of coming up  
9 here"?

10 We are talking about your testimony where you said  
11 "it was sort of like a routine type thing, just about every  
12 weekend he was running up to Connecticut." Isn't that what  
13 you said?

14 A I believe I probably stated that, right.

15 Q In your testimony yesterday, Mr. Hanlon, you  
16 placed the date of this second trip around the 21st of  
17 September?

18 A Right.

19 Q Would you say that's early in the month, the middle  
20 of the month or late in the month?

21 A Late in the month.

22 Q Do you recall when you were asked by the grand  
23 jury or in front of the grand jury about the trip that you made  
24 with David Gordon when he had the stolen guns with him and  
25 you answered, it was in September some time, and you were asked

1 would this be somewhere in the middle of September, and your  
2 answer was, "Yes, in the middle of September"?  
3

4 And the question, "First, second week, early part  
5 of September," and you said, "Right."

6 Do you remember saying that?

7 A No, I don't remember saying it.

8 Q Again, showing you Court Exhibit 3511, this is a  
9 transcript of your grand jury testimony, beginning on Page 5,  
10 Line 2. Read that to yourself.

11 Did you look at it, sir?

12 A Yes, I did.

13 Q Does it refresh your recollection, sir, that in  
14 answer to the question as to whether this took place, this  
15 second trip, when you were asked if it was the first, second  
16 week or early part of September and you said, right, didn't you?

17 A I guess I did say that, because that's what it  
18 says there, but --

19 Q Are you saying now that you didn't say that?

20 A No, I am not saying that I did not say that, but  
21 I was just more or less asked a question and I was trying to  
22 answer to the best of my ability, and I am very nervous and  
23 everything, so that I knew that we had come up in September,  
24 and, therefore, I wasn't concentrating as to just exactly when.

25 Q Do you recall what your testimony was yesterday

1  
2 regarding the first time that you yourself saw the guns on the  
3 second trip?

4 A Yes.

5 Q What did you tell us?

6 A I said when we reached Waterbury he had opened up  
7 the trunk.

8 Q That was in the evening prior to meeting with  
9 Mr. Daversa?

10 A Right.

11 Q Do you recall, sir, again referring to your grand  
12 jury testimony, that you indicated in answer to a question --  
13 that you said that Davey, meaning Mr. Gordon, showed him,  
14 meaning Mr. Daversa, the guns and everything, "I was quite  
15 curious to see what was in the car myself"?

16 A Yes, because I had only seen the guns for more  
17 or less a glimpse in the dark on Hill Street.

18 Q Yesterday, again, sir, when you were asked about  
19 the price that was paid for these guns and you testified \$130,  
20 do you remember saying that?

21 A Yes.

22 Q And then you were asked if you saw the actual  
23 payment. You said, "I didn't see the payment." Remember  
24 saying that?

25 A I do remember saying that I can't recollect

1  
2 completely seeing the transaction.

3 Q Again, calling your attention to your grand jury  
4 testimony, sir, on Page 10, in speaking of this same incident.  
5 The question was asked:

6 "Did you see this fellow give him any money?"

7 "Answer: Yes, I saw him give him money."

8 Do you remember telling that to the grand jury?

9 A I may have, because I was taking it as that I had  
10 seen him open up his wallet and count out money and which,  
11 if you agree to a price with somebody on something and you  
12 take out your wallet and you count out money and then you end  
13 up with the goods, I would take it very much so that the man  
14 had received the money; not that I saw the money exactly  
15 placed in the hand, no.

16 Q Did you see money being paid? Did you see that,  
17 sir?

18 A What do you mean by that? I mean, I seen the  
19 money being counted and and everything, sir.

20 Q You did see the money being counted out?

21 A Right.

22 Q Did you not testify in this court yesterday that  
23 "I did not see the payment"?

24 A I didn't actually see David Gordon take the money  
25 from Mr. Daversa's hand, but I saw Mr. Daversa count the money

1  
2 out.

3 Q You saw Mr. Daversa count the money out, but you  
4 didn't see him pay it to Mr. Gordon? Is that what you are  
5 saying?

6 A Right.

7 Q Then what did you mean by saying yesterday, "I  
8 didn't see the payment"? You did see the payment, then.

9 THE COURT: Is that a question?

10 MR. GOLDMAN: Yes.

11 Q You did see the payment, then, didn't you?

12 THE WITNESS: Your Honor, I don't know how to  
13 answer this. Like I've just explained, I saw Mr. Daversa  
14 count the money out. As I had stated yesterday, I do believe  
15 there was a noise, it distracted my attention. I didn't see  
16 the money transfer from one hand to the other hand, but I  
17 took it as a transaction in its way, because Mr. Daversa  
18 ended up with the guns.

19 Q Your testimony then, is that you didn't see him  
20 give him the money; is that it?

21 A Right.

22 Q Did you not say in your grand jury testimony, "Yes,  
23 I saw him give him money"? Did you say that in your grand  
24 jury testimony?

25 A I may have said that in my grand jury testimony.

1 Q Shall I show it to you, Mr. Hanlon?

2 A I don't care.

3 Q Referring to Court Exhibit 3511, Page 10, Line 11.

4 A That's right. That's what it says there.

5 Q You didn't say to the grand jury you saw him  
6 count it out, but you didn't see him receive it? You said, "I  
7 saw him give him money." Didn't you say that?

8 A Yes.

9 Q How long did you say this entire incident, from  
10 the time Mr. Daversa arrived until he left -- how long did that  
11 take?

12 A I don't know. Maybe an hour or so.

13 Q About an hour?

14 A I guess so. I don't know.

15 Q Do you remember testifying to the grand jury in  
16 answer to that question, how long this meeting took place,  
17 you said, "I would say it probably took half, three-quarters  
18 of an hour"?

19 A I probably said that, yes.

20 Q I believe, and I am not certain about this, that  
21 yesterday you were asked if you had seen Mr. Daversa on any  
22 occasion since then. Were you asked that question yesterday?

23 A I do not know.

24 Q If it wasn't asked yesterday, can you tell us now  
25

1  
2 A I think I had seen him a couple of times around  
3 town since this all happened.

4 Q Did you see him in the hall before you came in to  
5 testify?

6 A Yes, I do believe I saw him in the hall.

7 Q I believe that you also indicated the sale of,  
8 referring that is, to the sale of two guns, to a man from  
9 Thomaston, that the first item that was sold was a rifle;  
10 is that correct?

11 A It could be correct.

12 Q Well, you were present, sir, were you not?

13 A Yes, that's right, and I am trying to remember  
14 back almost two years, sir, which like I stated yesterday, to  
15 remember back that far is more or less like -- I don't know  
16 whether it was a rifle or a shotgun that was sold first  
17 exactly.

18 Q In any event, one sale was made outside on the  
19 street in Waterbury, was it?

20 A That's right.

21 Q And the other sale was made at this man's home?

22 A That's right.

23 Q Whichever gun was sold first, whether it was a  
24 shotgun or a rifle, what was the sale price of that item?

25 A All I can remember out of it is between the two

1  
2 guns, it was roughly \$100.

3 Q Do you remember the statement which you gave, a  
4 written statement which you signed on October 4th, where you  
5 broke down the price of the two items?

6 A I probably did break down the price of the two  
7 items at that time.

8 Q Didn't you say --

9 A Because I could remember it better then.

10 Q Didn't you say at that time that the sale in  
11 Waterbury involved a shotgun for about \$40?

12 A I perhaps very well did.

13 Q Isn't that true, was the first item, whichever it  
14 was, sold for \$40?

15 A I think it might have been, yes.

16 Q And the second item, whatever it might have been  
17 that was sold at the home, was sold for \$65? Isn't that what  
18 you told them?

19 A Something like that, yes.

20 MR. GOLDMAN: I have no further questions.

21 REDIRECT EXAMINATION

22 BY MR. CLARK:

23 Q Mr. Hanlon, I believe you stated that some time  
24 after that trip to Waterbury, you provided certain information  
25 to the police in Pennsylvania regarding Mr. Gordon?

1  
2 A That's right.

3 Q Did you tell them anything with respect to a future  
4 trip that he may be making?

5 A Yes. I told them that he was planning on going  
6 back up to Waterbury, quite prior to this I had also called  
7 the Lancaster Police Department, telling them that Davey was  
8 an escapee from New Hampshire and everything, and I don't know  
9 what happened, but they couldn't find any information on it.  
10 And so, when I had gotten, more or less the information, you  
11 might say, I called the police and told them that he would be  
12 coming up through the Pennsylvania Turnpike to the Jersey  
13 Turnpike on up through and what time he left.

14 Q Was that on September 25, 1973?

15 A I do believe so, yes.

16 Q To your knowledge, was Mr. Gordon arrested as a  
17 result of that information?

18 A Yes. Later that day, I had gotten a phone call  
19 as to --

20 Q Just yes or no would be fine.

21 Now, you were first interviewed by Mr. Nadel in  
22 October of 1973?

23 A That's right.

24 Q Between the time that you provided the information  
25 to the police that resulted in Mr. Gordon's arrest, and the

1  
2 time that you spoke with Agent Nadel, did you speak with  
3 Mr. Gordon during that period of time?

4 A No, I don't believe so.

5 Q Did you ever discuss with Mr. Gordon what statement  
6 or story you should give to investigators if they came to  
7 question you about that?

8 A No, I didn't.

9 Q Between September 25 of 1973 and October 4 of 1973,  
10 did you speak with Miss Tracy?

11 A Yes, I think I did. I am not positive about that.

12 Q Did you discuss with Miss Tracy what if anything  
13 that you should give to investigators involving the sale of  
14 guns, prior to giving any statement to Mr. Nadel?

15 A No.

16 Q Did you discuss that with anyone before speaking  
17 with Mr. Nadel?

18 A Just Diane had told me that Mr. Nadel was looking  
19 for me and for me to go find him and just give my story,  
20 because Davey had turned State's evidence, is all she told me.

21 Q Did anyone ever tell you what you should tell  
22 Mr. Nadel?

23 A No.

24 MR. CLARK: No further questions.

25 (Continued on page 200.)

1  
2 RE CROSS EXAMINATION

3 BY MR. GOLDMAN:

4 Q Mr. Hanlon, who is Diane?

5 A What do you mean by "who is Diane"?

6 Q You talked about that in answer to a question  
7 Mr. Clark asked you, whether you discussed with anybody --  
8 you said just Diane. I am asking you who she is.9 A Well, she has gone under a couple of different  
10 names: Diane Mignole, Diane Fenley. She was Davey's girlfriend.

11 Q Was she living with you and Davey in Pennsylvania?

12 A That's right.

13 Q But she was Davey's girlfriend?

14 A At that time, yes.

15 Q You and Davey were friends before October 25,  
16 weren't you?

17 A Somewhat friends, yes.

18 Q You lived at his home or you lived in the same  
19 house together, didn't you?

20 A Yes.

21 Q What was your reason, sir, for calling the  
22 Lancaster Police on September 25th?23 A My reason mostly was that I just couldn't see all  
24 the wrong that was being done more or less. I felt as though  
25 it was part of my duty as a person to inform them.

Q That means, inform on your friend, Mr. Gordon?

A That's right.

Q Did you ever live with Miss Tracy?

A Yes, I did.

Q When was that?

A Let's see. Early in '73, I lived with Vernon Gordon and Sheila Tracy.

Q Vernon Gordon is what to David Gordon?

A I believe a half brother or something of this effect. I am not positive.

Q If I understand you correctly then, first you were friendly with Vernon Gordon; is that right?

A Yes.

Q And Vernon Gordon was living with Miss Tracy?

A That's right.

Q And you also were living there at that time?

A Right.

Q And then subsequent ot that you went to Pennsylvania and lived with David Gordon?

A Yes. Vernon and Sheila had moved to Pennsylvania, too.

MR. GOLDMAN: No further questions.

THE COURT: Mr. Hanlon, in your testimony yesterday when you were describing what Mr. Daversa and Mr. Gordon said

1  
2 about any subsequent transaction, you said something about  
3 cash and I just wondered if you would repeat that testimony,  
4 because I am not clear what you said about cash.

5 THE WITNESS: Well, it was mentioned during the  
6 talk that Davey didn't want any types of checks or anything  
7 like that, because a check could be easily traced. So he  
8 wanted --

9 THE COURT: That's what Gordon told Daversa?

10 THE WITNESS: Yes. He also told Sheila to bring  
11 this point up to anybody and everybody that it was to be  
12 cash, no checks.

13 THE COURT: Did Daversa say anything on that  
14 subject?

15 THE WITNESS: -- Yes. He made a statement as to  
16 he would have cash.

17 MR. CLARK: May I inquire on that?

18 THE COURT: Yes.

19 REDIRECT EXAMINATION

20 BY MR. CLARK:

21 Q When Mr. Daversa said he would have cash, was he  
22 referring to a future delivery of weapons at that time?

23 A That's correct.

24 MR. CLARK: I have no further questions.

25 MR. GOLDMAN: Nothing further.

(Witness Examined)

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1  
2 THE COURT: All right, you are excused.

3 (Witness excused.)

4 MR. CLARK: If your Honor please, at this time we  
5 have some stipulated testimony.

6 THE COURT: All right.

7 MR. CLARK: Shall I read it to the jury prior to  
8 your advising them what a stipulation means?

9 THE COURT: This has been discussed with counsel?

10 MR. CLARK: Yes.

11 THE COURT: Ladies and gentlemen, counsel are  
12 entitled and sometimes do agree that certain facts can be  
13 accepted as facts in this case, so a witness doesn't have to  
14 be called to something that's not in dispute, and the facts  
15 they stipulated to are not entitled to any special weight in  
16 the case or any less weight. It's just that they are facts  
17 before you as much as any other facts that you find to be  
18 established in the case.

19 MR. CLARK: At this time, the prosecution and the  
20 defense, with the consent of the accused, would stipulate  
21 that if Thomas Carulla, 38 Meadow Street, Thomaston,  
22 Connecticut, were called to testify, he would testify as  
23 follows: He would state that somewhere around September 21,  
24 1973, Sheila Tracy called him and asked if he would be  
25 interested in buying any guns. As a result of that,

1 Mr. Carulla met her on East Farm Street in Waterbury that day.

2 Miss Tracy was with two men in a black Cadillac.

3 Mr. Carulla bought a shotgun from one of the men for \$40.

4 Later that same night, Miss Tracy and the same  
5 two men came to Mr. Carulla's home. Mr. Carulla then bought  
6 a rifle from the same man that he had purchased the shotgun  
7 from and he paid \$65 for the rifle.

8 On October 3, 1973, Mr. Carulla turned over the  
9 two guns that he had purchased to Special Agent Nadel of  
10 the Bureau of Alcohol, Tobacco and Firearms.

11 The other stipulation would be that the defendant,  
12 Pasquale Daversa, on June 6, 1971, was convicted in the  
13 Superior Court for New Haven County at Waterbury, of receiving  
14 stolen goods of a value over \$250 and less than \$2,000, in  
15 violation of Section 53-65 of the Connecticut General  
16 Statutes, which offense is a felony.

17 Upon that conviction, Mr. Daversa was sentenced  
18 to a term of imprisonment three to five years; the execution  
19 of his sentence was suspended and Mr. Daversa was placed on  
20 probation for three years.

21 THE COURT: Does that conclude --

22 MR. CLARK: There is one additional fact that  
23 counsel and I would stipulate to. That is that Mr. Carulla  
24 was not arrested as a result of any purchase of these weapons.  
25

1  
2 THE COURT: Ladies and gentlemen, with respect to  
3 the second topic that was a subject of a stipulation, namely,  
4 the defendant's 1971 state court conviction, that conviction  
5 is in evidence in this case, and I will go into this in more  
6 detail at the charge, but I want you to understand this part  
7 of it now. It's in evidence because one of the charges, one  
8 of the federal charges that has been made against the  
9 defendant in this trial is that he received a firearm and at  
10 the time he received it he was a person who had been convicted  
11 previously of a felony. That means a crime punishable by  
12 more than a year in prison.

13 So it's part of the charge in this case that he  
14 had been previously convicted, and so the parties have  
15 stipulated that in fact he had been previously convicted.

16 But the fact of a prior conviction, even though  
17 it is what is called an element of the first offense, it's  
18 an ingredient of the first offense, that fact is not to be  
19 considered by you for anything more than simply establishing  
20 that element, namely, of a prior conviction.

21 Specifically, it's not to be considered as  
22 indicating whether or not the defendant is a person who is  
23 likely to have committed this particular crime.

24 It's not to be weighed in considering, for  
25 example, whether he is a good or a bad person. There is a

1  
2 fact that he has committed that crime and the penalty was  
3 imposed, and it is an ingredient of this federal offense, that  
4 a person having been convicted of a prior offense. And for  
5 that limited purpose the parties have agreed that that fact  
6 may come to your attention.

7 MR. CLARK: Call Special Agent Nadel.  
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2 M O R T I M E R N A D E L, called as a witness by the  
3 Government, having first been duly sworn, testified as  
4 follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: Mortimer Nadel, N-a-d-e-l, Special  
7 Agent, U. S. Treasury Department, Alcohol, Tobacco & Firearms  
8 Division, New Haven, Connecticut.

9 DIRECT EXAMINATION

10 BY MR. CLARK:

11 Q Agent Nadel, were you so employed on September 25,  
12 1973?

13 A Yes, sir.

14 Q Were you in Connecticut on that date?

15 A Yes, sir.

16 Q On September 25, 1973, were you in possession of  
17 any information with respect to guns that might be coming  
18 into Connecticut.

19 A I was, sir.

20 Q Did you take any action as a result of that?

21 A I did.

22 Q What specifically did you do?

23 A With Agent Sussman and officers of the Waterbury-  
24 Naugatuck Police Department, we stationed ourselves on Route 8,  
25 between Naugatuck and Waterbury, awaiting the arrival of a

1  
2 vehicle described in a teletype.

3 Q What was the source of that information?

4 A A teletype message from our Philadelphia office.

5 Q Pennsylvania?

6 A Yes.

7 Q On September 25, 1973, were you informed that  
8 anyone had been arrested in connection with that information?

9 A Yes, sir.

10 Q Who was that person?

11 A We received a radio message that a David Gordon  
12 had been apprehended by the Westport State Police at Westport,  
13 Connecticut.

14 Q Having received that information, did you proceed  
15 to Westport?

16 A I did, sir.

17 Q Did you interview Mr. Gordon?

18 A I did.

19 Q Did Mr. Gordon at that time provide you with any  
20 information?

21 A He did.

22 Q Just answer yes or no.

23 A Yes, sir.

24 Q Did he provide a description to you of anyone who  
25 may have an involvement with his arrest?

1  
2 A Yes, sir.

3 Q As a result of that description, did you show  
4 Mr. Gordon any photographs?

5 A I did.

6 Q How many did you show him, if you recall?

7 A Seventeen.

8 Q Was a picture of the defendant, Mr. Daversa,  
9 included in that group of photographs?

10 A It was.

11 Q Did Mr. Gordon make any selection of photographs  
12 from the group that you showed him?

13 A He did.

14 Q Which photograph did he select?

15 A Mr. Daversa's.

16 Q Did Mr. Gordon place any marking or identification  
17 on that photograph?

18 A Yes, sir. He wrote his initials and the date on  
19 the reverse side.

20 Q Did he do that in your presence?

21 A Yes, sir.

22 Q Did you also have occasion to interview  
23 Mr. Hanlon in connection with this investigation?

24 A Yes, sir.

25 Q Do you recall when that interview took place?

1  
2 A First one, I believe, took place on October 3rd;  
3 the second on October 10th.

4 Q Of 19 --

5 A 1973, yes, sir.

6 Q When you interviewed Mr. Hanlon, did you provide  
7 him any information that you had from Mr. Gordon?

8 A No, sir.

9 Q What did you inquire of Mr. Hanlon?

10 A I asked him if he knew of Gordon's activities and  
11 what he knew about them and if he had accompanied Mr. Gordon  
12 on any of his trips.

13 Q Did he give you a statement?

14 A He gave me a signed statement.

15 Q Are those the statements that have been referred  
16 to while Mr. Hanlon was testifying?

17 A Yes, sir.

18 Q Did you make any requests with Mr. Hanlon with  
19 respect to viewing photographs?

20 A I did, sir.

21 Q What did you ask of him?

22 A I asked him if he would be able to identify the  
23 person that he met with David Gordon and Sheila Tracy, if he  
24 could identify the individual who had purchased firearms from  
25 David Gordon. He said that he could not -- he didn't believe

1  
2 that he could identify anyone from photographs, but he did  
3 believe that he could identify the person if he saw him.

4 Q Did you show Mr. Gordon a photograph of the  
5 defendant then -- Mr. Hanlon?

6 A No, sir.

7 Q At no time did you show him a photograph?

8 A No, sir.

9 Q Similarly, did you interview Miss Tracy with  
10 respect to this investigation?

11 A I did, sir.

12 Q Do you recall when that took place?

13 A On January 16th, I believe, sir, 1974.

14 Q When you interviewed her, did you provide her with  
15 any of the information that you had gained from Mr. Gordon  
16 and Mr. Hanlon?

17 A No, sir.

18 Q Did you also interview a Mr. Carulla during the  
19 course of this investigation?

20 A I did, sir.

21 Q Where is Mr. Carulla from?

22 A He is from Thomaston, Connecticut.

23 Q With respect to Mr. Carulla, had you received any  
24 information from Mr. Gordon as to where Mr. Carulla could be  
25 located?

1

2

A I did.

3

Q What did Mr. Gordon tell you?

4

A He told me that on the drive to Thomaston he did not know the name of the person to whom he had sold guns, but he could give me directions to that person's house and the directions in brief, were: go to Thomaston, past the road that leads to Bantam and take the next left on what appears to be a highway, take the first right off that highway, follow that street around and about mid-way in the street you will see a blue Econoline truck parked on the right-hand side and the individual's home to whom he had sold the guns was on the opposite side of the street.

14

Q When did Mr. Gordon give you that information?

15

A On the 25th, sir.

16

Q When --

17

A Of September.

18

Q Did you in fact follow those directions that Mr. Gordon gave you?

19

20

A I did, sir.

21

Q What did you or who did you find as a result of those directions?

22

23

A I found Mr. Thomas Carulla.

24

Q What date was that?

25

A October -- if I may refer to my notes, sir?

October 3rd, sir.

Q 19 --

A 1973.

Q Did you interview Mr. Carulla with respect to having purchased any weapons?

A I did, sir.

Q As the result of that interview, did Mr. Carulla turn over any weapons to you?

A He did. He turned over two firearms: a shotgun and a rifle.

Q I now show you Government's Exhibits 6 and 7 for identification and ask you if you can identify these items.

A Yes, sir.

Q What do you identify them as?

A Those are two firearms turned over to me by Mr. Carulla.

Q Mr. Nadel, did you cause a photograph to be made of those two items?

A I did, sir.

Q Do you have it with you?

A Yes, sir.

(Photograph marked as Government Exhibit 8 for identification.)

Q Were you present when that photograph was made?

1  
2 A That photograph was made in my presence, yes, sir.

3 Q I show you Government 8 for identification and  
4 ask you if this photograph is a fair and accurate repre-  
5 sentation of the two rifles you just identified?

6 A They are.

7 MR. CLARK: I offer Government 8 for identification  
8 as a full exhibit.

9 I show it to counsel.

10 Apparently there is no objection.

11 THE COURT: Full exhibit without objection.

12 (Government's Exhibit 8 for identification  
13 received in evidence.)

14 Q Agent Nadel, were you present in court yesterday  
15 when photographs were presented of other weapons?

16 A I was, sir.

17 Q Did you hear testimony that one of the weapons  
18 found in Mr. Gordon's car was not included in that picture?

19 A I did, sir.

20 Q Are you aware of the reason why that one weapon  
21 was not included in the picture?

22 A Yes, sir.

23 Q Why is that?

24 A David Gordon claims that to be his personal weapon  
25 and was not for sale.

1  
2 MR. CLARK: No further questions.

3 CROSS-EXAMINATION

4 BY MR. GOLDMAN:

5 Q Agent Nadel, this entire investigation was under  
6 your jurisdiction, I would assume?

7 A I was one of the investigating officers.

8 Q Were you considered the principal investigating  
9 officer, would you say, sir?

10 A Probably.

11 Q These two guns, of which we have a photograph,  
12 those are not the guns that Mr. Gordon claimed that he sold  
13 to Mr. Daversa, are they?

14 A Not to my knowledge.

15 Q Those are guns which Mr. Gordon indicated that he  
16 sold to the man in Thomaston?

17 A That's correct, sir.

18 Q In interviewing Mr. Hanlon, I understand your  
19 testimony to be that Hanlon indicated he could not identify  
20 Mr. Daversa from photographs; isn't that so?

21 A That's correct, sir.

22 Q And the various statements that have been referred  
23 to, that is the statement given by David Gordon that he signed,  
24 and I am referring to the Gordon statement of November 25th,  
25 the day of his arrest.

1  
2 A September 25th.

3 Q I am sorry, sir. My error. September 25th.  
4 You took that statement from him?

5 A Yes, sir.

6 Q You administered an oath to him, did you not?

7 A I did, sir.

8 Q And the form of the oath would be that the state-  
9 ment was true and correct to the best of -- what was the --

10 A "That the foregoing statement, in the statement,  
11 consisting of one page, is true and correct to the best of  
12 my knowledge and belief; that I have not been given any  
13 promise of immunity or threat or duress and the statement is  
14 made under no threat or duress."

15 Q He raised his hand, did he, when you said that?

16 A Yes.

17 Q You took his acknowledgment?

18 A I jurated it, yes, sir.

19 Q Would you look at Court Exhibit 3501, Mr. Nadel,  
20 and tell me if that's not a photocopy of that September 25th  
21 statement?

22 A Yes, sir.

23 MR. GOLDMAN: I would like to offer, even though  
24 this is a xerox copy, I don't know where the original is, as  
25 a full exhibit.

1  
2 MR. CLARK: There would be an objection, regardless  
3 of whether it's a xerox or an original, your Honor.

4 THE COURT: Is there something else in it other  
5 than what's been questioned about that prompts the objection?

6 MR. CLARK: No, but I do think it's not offered  
7 through the proper witness.

8 THE COURT: Well, there has been a good bit of  
9 testimony about it.

10 MR. CLARK: That's correct.

11 THE COURT: Perhaps I am not clear what the  
12 objection is.

13 MR. CLARK: That may be because I am not clear  
14 what the offer is.

15 MR. GOLDMAN: Well --

16 THE COURT: It was questioned about as a prior  
17 inconsistent statement.

18 MR. CLARK: All right.

19 MR. GOLDMAN: Since he took the acknowledgment,  
20 I felt I would wait until he will testify about the  
21 acknowledgment and therefore offer it through, as a statement  
22 which this witness took and jurated.

23 MR. CLARK: I withdraw the objection.

24 THE COURT: Mark it as the next number,  
25 Defendant's Exhibit A, full exhibit.

(September 25, 1973 statement marked Defendant's Exhibit A for identification received in evidence.)

Q Again, referring to your first interview with Mr. Gordon, at that time did you in the statement that he gave you, which is now Exhibit A -- did he indicate that he had made two trips to Waterbury prior to September 25th?

A I believe that's what his statement says.

Q Do you remember him also telling you that on the first trip he had met this purchaser that he speaks of at the Waterbury Plaza?

A Correct.

Q And that two weeks later he met this same man again? In other words, he talks about two incidents rather than a single incident?

A If that's what it says, that's correct.

Q That's what he told you?

A Whatever is down there is what he told me, sir.

Q And you next interviewed him on October 2nd, I believe; Mr. Gordon, I am speaking of?

A The first interview is that written interview. Later the same day I had another talk with Mr. Gordon.

Q On September 25th?

A Yes, sir.

Q Did he give a statement at the second interview?

180a

A No, I don't recall.

Q Following that, you had an interview on October 2nd?

A That's correct, sir.

Q And that interview was taped?

A That's correct.

Q Did he not repeat on the occasion of the second interview basically the same story which he told you on the first interview, namely, that he had made two trips prior to September 25th?

A Yes, sir.

Q Mr. Nadel, based upon your interviews with Mr. Gordon and Mr. Hanlon, would you state whether or not you found some discrepancies in their stories, some inconsistencies?

MR. CLARK: I think that's rather broad, your Honor.

MR. GOLDMAN: It may be, but I will --

THE COURT: In any event, his assessment of the testimony is not relevant in this case.

Q Mr. Gordon was arrested on September 25, 1973, was he not?

A Yes, sir.

Q Do you know what the charges were?

A They were on state charges, I believe: carrying weapons, dangerous weapons in a motor vehicle, and a fugitive

charge.

Q He was not arrested on any federal charges?

A No, sir.

Q Now, the interviews that you had with Mr. Gordon, Mr. Hanlon, Miss Tracy, spoke about Daversa, true?

A True.

Q At any time, sir, did you make an attempt to question Mr. Daversa?

A No, sir.

Q Never interviewed him?

A No, sir.

Q Never asked him for a statement?

A No, sir.

Q Never attempted to search his home?

A No, sir.

Q Any effort made to find the guns that were supposedly sold to him?

A Yes, sir.

Q What did you do?

A Went through the usual investigative channels, talking to people, see if any of the guns showed up.

Q But no effort was made to see if they were at Mr. Daversa's home?

A No, sir.

Q You also spoke with Mr. Carulla?

A Yes, sir.

Q And received these two guns that have been displayed here today?

A That's correct.

Q From him?

A Correct.

Q And did you arrest Mr. Carulla?

A No, sir.

Q Were any promises or offers made to Mr. Gordon for his testimony by you?

A No, sir.

Q Regarding your interview with Miss Tracy, I believe you indicated you interviewed her on January 16, 1974?

A I believe that's correct, sir.

Q Did you talk with her on any other occasions?

A Prior or subsequent?

Q At either time, sir.

A Subsequent, yes.

Q Did you talk to her on any occasions prior to that?

A No, sir.

Q Did you visit at her home on any occasions prior to that?

A No, sir.

1  
2 Q Was this January 16th interview of 1974 at her  
3 home or somewhere else?

4 A This was not at her home, sir.

5 Q It was not at her home?

6 A No, sir.

7 Q Do I understand your testimony to be that you did  
8 not go to her home on any other occasions?

9 A No, that is not what you indicated. You asked  
10 if I spoke with her at her home on prior occasions.

11 Q Did you go to her home on any other occasions?

12 A When I was looking for her to interview her, I  
13 went to several places where she allegedly was residing, but I  
14 never talked to her prior to January 16, 1974.

15 Q How about subsequent, sir?

16 A Subsequent, yes, sir.

17 Q And were those times when you talked to her at  
18 her home?

19 A Yes, sir. Some of them.

20 Q How many times?

21 A It would have to be an estimate, sir.

22 Q Approximately?

23 A It would have to be after the grand jury testimony--  
24 where she testified, it was probably after that time. It was  
25 quite a few times, possibly not so many visits as to the

1  
2 contacts.

3 Q You're saying, sir, if I understand you, that  
4 subsequent to January 16th, on the 50 occasions --

5 A I made contact.

6 Q You made contact with her?

7 A Yes, sir.

8 Q That means either by phone or in person?

9 A Yes, sir.

10 Q And some of those were at her home or where she  
11 lived?

12 A Correct.

13 Q And some were places where she was employed?

14 A Correct.

15 Q And you indicated, sir, that this was after she  
16 gave the statement and also, if I understand you correctly,  
17 after she testified before the grand jury?

18 A Correct, sir.

19 Q What was the purpose of the subsequent discussions  
20 or contacts with her if she has already testified and she has  
21 already given a statement to you?

22 A When she testified at the grand jury, she indicated  
23 that she was in imminent danger or felt she was in imminent  
24 danger and she asked for protection and it was granted.

25 Q That was your job?

Department, his prior record of arrest in fencing and from sources of information that I doubted very much whether I could get an answer from him.

MR. CLARK: Nothing further.

RE CROSS EXAMINATION

BY MR. GOLDMAN:

Q You say it's based on reputation, prior record and I think you said, sources of information?

A Correct, sir.

Q Didn't the other people that you interviewed have reputations, have prior records, and weren't there sources of information available on them?

A No, sir.

Q Mr. Gordon didn't have a record?

A I didn't say that I asked Gordon or Hanlon or Tracy, for that matter, about Mr. Daversa's reputation.

Q No, sir. I am talking about interviewing people in connection with an investigation, you say it's based on your judgment and that your judgment in turn is based on those factors?

A My judgment as far as interviewing Mr. Daversa was not based on my interviews with either of those three people whom you mentioned.

MR. GOLDMAN: That's all.

## AFTERNOON SESSION

MR. GOLDMAN: Call the defendant, Pasquale Daversa.

PASQUALE DAVERSA, called as a witness in his own behalf, having first been duly sworn, testified as follows:

THE CLERK: State your name and address.

THE WITNESS: Pasquale Daversa, 1668 North Main Street, Waterbury, Connecticut.

## DIRECT EXAMINATION

BY MR. GOLDMAN:

Q You indicate that you live in Waterbury. Have you always lived in the City of Waterbury?

A Yes.

Q Are you married?

A Yes, I am.

Q Do you have any children?

A Yes, I have.

Q How many?

A Five.

Q They all live at home with you?

A Yes, they do.

Q And at the present time what is your business or

1  
2 occupation?

3 A I am a painter.

4 Q When you say a painter, are you a contractor?

5 A I am a contractor.

6 Q You're a painting contractor?

7 A And siding and roofing.

8 Q For how many years have you been so engaged?

9 A On my own about ten.

10 Q Prior to that, you had --

11 A I worked for other contractors.

12 Q In your business at this time do you have any  
13 employees?

14 A I have one.

15 Q Both of you do the same --

16 A No. You see, when the work comes in I have got  
17 him and another guy together. I go out and I price the job  
18 and I have him handle them all.

19 Q You have heard the testimony that has been forth-  
20 coming in this trial, and it is true, is it not, Mr. Daversa,  
21 that you were convicted in 1971?

22 A Yes, it is.

23 Q The information that was given regarding that  
24 conviction was correct?

25 A Yes.

1  
2 Q I see you wear glasses now. How long have you  
3 worn glasses?

4 A I have been wearing glasses for the last 27 years.

5 Q Do you see without them?

6 A No.

7 Q You wear them continuously?

8 A Constantly.

9 Q All the time?

10 A The only time they come off my face is when I go  
11 to bed at night.

12 Q Do you know Sheila Tracy?

13 A Yes, I do.

14 Q How long have you known Sheila Tracy?

15 A Since she was a baby.

16 Q How did you come to know her?

17 A I used to go out with her aunt.

18 Q Before you got married?

19 A That's before I got married, right.

20 Q She was a date, her aunt?

21 A Her aunt was a date, right.

22 Q You have known her since she was a child?

23 A Right.

24 Q Do you know her father?

25 A Yes, I know the father. As a matter of fact, he

1  
2 worked for me.

3 Q As a painter?

4 A As a painter and as a roofer.

5 Q Calling your particular attention, Mr. Daversa, to  
6 the month of September of 1973, you have heard the testimony  
7 from the various witnesses this morning and yesterday. Did  
8 you receive a telephone call from Sheila Tracy?

9 A Yes, I did.

10 Q Would it be fair to say that it was around the  
11 21st of September?

12 A About, I would say.

13 Q When she called you on the phone what did she say  
14 to you?

15 A She says she had some merchandise, if I wanted to  
16 come up and look at it, something about antiques.

17 Q About antiques?

18 A Right.

19 Q In addition to your painting contracting, do you  
20 have -- contracting business, do you have any other businesses?

21 A Yes. I run a coin store and an antique shop.

22 Q How long have you been in that business?

23 A I have been in the coin business, I would say,  
24 about 22 years or better.

25 Q Do you buy and sell antiques?

1  
2 A Well, I have been buying lately. I haven't been  
3 selling. I usually have been going to auctions.

4 Q You do maintain premises for merchandise --

5 A I have a room attached to my house that's like  
6 a hobby shop, all with the coins and antiques.

7 Q Gettinb back to this phone call. What was it  
8 that she said to you when she called you on the telephone?

9 A She said she had some merchandise, there was some  
10 antiques and I says, I was interested in antiques and I would  
11 be up to look at them.

12 Q She knew that you bought and sold antiques?

13 A Right.

14 Q Had she ever been to your place of business?

15 A She came to the house a few times, yes, she did.

16 Q And did she mention what type of merchandise it was?

17 A No, she didn't.

18 Q But she just thought that you might be interested  
19 in some antiques that she knew you have?

20 A Right.

21 Q Did she say anything about whatever the items were,  
22 whether they were stolen or anything of that nature?

23 A No.

24 Q About what time of day would you recall that this  
25 was?

1  
2 A It was in the afternoon. What time, I don't  
3 remember.

4 Q What did you do as a result of receiving this  
5 telephone call?

6 A I received the phone call, I went to where she was  
7 staying and when I got there, we went inside. She told me  
8 there was rifles and that was it. I said I am not interested  
9 in them.

10 Q What kind of a car were you driving in 1971?

11 A Well, at that time I had a '63 Cadillac.

12 Q What color was that?

13 A Black. I had a '63 Buick station wagon.

14 Q What color?

15 A Gold and brown and I am not positive, I know I had--  
16 I have got the '67 Oldsmobile, but I don't remember when I  
17 bought it, because I didn't check it out, and that's gold. And  
18 then I do have a '67 Chrysler; that's white.

19 Q A Chrysler?

20 A Right.

21 Q Did you have those in 1973?

22 A To be honest with you, I would have to refer to  
23 the Motor Vehicle on that because I don't remember.

24 Q In any event, you did go to the place where  
25 Sheila Tracy was living?

1  
2 A Right.

3 Q You knocked at the door and rang the bell --

4 A I knocked on the door.

5 Q Were you admitted to the --

6 A Yes, she let me in the house.

7 Q Can you tell us, were there any people there?

8 A Yes, there was.

9 Q What room did you go into when you arrived there?

10 A Living room.

11 Q Any of the people that you say were there, have  
12 you seen them in court?

13 A Well, it's hard to say. I mean, there was a  
14 couple there, but I can't say that it was the two that were  
15 in the court, because I don't remember.

16 Q In other words, are you telling me that you don't  
17 remember seeing or talking with either Mr. Gordon or --

18 A I talked to somebody, but I don't know if it was  
19 those two.

20 Q Where did this conversation take place?

21 A In the house.

22 Q Did you have any conversations with anybody --

23 Sheila Tracy, David Gordon, or David Hanlon, to your knowledge;  
24 did you have any conversations with those three at any place  
25 outside of the house?

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A No.

Q So that any conversations that you did have --

A Were in the house.

Q And can you tell us as nearly as you can recall, the nature of whatever conversations you did have and who you had --

A The only thing I says, I says, "Sheila, I thought you said they were antiques. Rifles, I'm not interested in. I told you I don't buy that stuff."

Q Anything said to you about these rifles being stolen?

A No.

Q Did you ever go outside with Sheila or anybody else, outside of the house on that occasion?

A No.

Q On any occasion in that period?

A The only time I went out of the house is when I walked out to my car.

Q When you did that, did you by by yourself?

A Yes, I did.

Q Did anybody at that occasion show you any guns, rifles, pistols, anything of that nature?

A No.

Q Did anybody try to convince you that you should

1  
2 buy any of the merchandise that was --

3 A No.

4 Q You were not shown any guns?

5 A No. I wasn't interested in them.

6 Q Did you ever ask her for a blanket?

7 A Not to my knowledge I never did.

8 Q On this occasion I am talking about.

9 A No.

10 Q Do you recall talking with Sheila subsequent to  
11 this occasion and after you were arrested?

12 A After I was arrested? Yes, I talked to Sheila.

13 Q By the way, were you ever interrogated by any  
14 members of the --

15 A No, I wasn't.

16 Q Either Waterbury Police Department or State  
17 Police, by the -- by A.T.F. people?

18 A No.

19 Q Mr. Nadel or any people connected with his agency?

20 A No.

21 Q Anybody try to look through your house to see if  
22 you had any weapons?

23 A Nobody.

24 Q Did you in fact have any weapons in your home?

25 A No.

Q Getting back to Miss Tracy and the period of time subsequent to your arrest, you did have a conversation, you said, with --

A Yes, I did.

Q As a result of that conversation, did you ask her if she would come and tell her story to me?

A Yes, I did.

Q Did you threaten her in any way?

A No, I didn't.

Q Did you ask her if she would voluntarily come?

A I did.

Q Did she come to my office?

A Yes, she did.

Q With you?

A With me and her uncle.

Q And her uncle? Her uncle's name is what?

A Michael Druan.

Q Do you know how that's spelled?

A D-r-u-a-n, I believe.

Q You remember arriving at my office with her?

A Yes, I do.

Q Do you remember what I said to her before we started talking?

A Yes, I remember you said, "Sheila, you don't have

1  
2 to say nothing to me if you don't want to."

3 Q Did I ask her if we were only looking for the  
4 truth?

5 A Right.

6 Q Did she voluntarily discuss the statement which  
7 she had given?

8 A Yes, she did.

9 MR. CLARK: I will object. I think it's quite  
10 leading.

11 THE COURT: Sustained.

12 Q Do you recall any of the things that she did say  
13 regarding that statement in my office?

14 A I remember vaguely a little, yes.

15 Q Can you tell us what you do remember?

16 A I remember she told you about not reading the  
17 statement; she didn't know what she signed, first of all.  
18 And you asked her if she asked me if the merchandise was hot  
19 and she said she didn't say no such thing. And there was  
20 something else again. You asked her why she made this state-  
21 ment and she explained to you that they were pressuring her,  
22 they were bothering her, that Mr. Nadel went to her house a few  
23 times and where she was working and they just completed  
24 badgered her with the understanding that if she didn't sign  
25 the statement or make a statment, that they would subpoena

her and she would go to jail and she would lose her kids,  
and things like that, and they got her to the breaking point.

Q Did she say anything at that occasion relative to  
whether or not she saw any sale taking place?

A She said she didn't see nothing.

Q Did she make any statement to you regarding  
whether she would have known if a sale had taken place?

A Yes, she did. She said if I bought anything she  
would have known about it.

Q She did indicate, did she not, that you did come  
to the house?

A Yes.

Q And what did she say, if anything, about antiques?

A When I got there, she mentioned a clock that  
wasn't working and some rifles and I said I am not interested  
in the rifles. If the clock don't work, I am not interested  
in that neither.

Q Just so we understand clearly your statement,  
Mr. Daversa, are you telling us that you do or you do not  
know Mr. Gordon and Mr. Hanlon?

A I don't know them.

Q Is it possible that you might have met them on  
that occasion?

A No.

1  
2 Q It's not possible?

3 A Maybe on that occasion, yes, it's possible, yes.  
4 Possible. I am sorry.

5 Q You certainly did not have any of the conversations  
6 or enter into any of the transactions that have been described  
7 or ascribed to you?

8 A No.

9 Q There is no question about that?

10 A No question about that. I didn't do no talking  
11 to them.

12 MR. GOLDMAN: You may inquire.

13 CROSS-EXAMINATION

14 BY MR. CLARK:

15 Q Mr. Daversa, do you consider your primary occupation  
16 to be painting contractor?

17 A Painting, roofing and siding.

18 Q Is it fair to say that as a sideline you deal in  
19 used commodities?

20 A Well, antiques, yes, and coins. At one time I had  
21 a store. I closed the store and just moved everything into  
22 the house.

23 Q You purchased items --

24 A I have slips for everything I purchase.

25 Q Was it unusual that Sheila cllaed you on that day?

1

2

A No.

3

Q You did go to her house?

4

A Yes, I did.

5

Q That is the first time that she indicated that

6

there was some guns involved?

7

A When I got there she told me there was rifles and

8

I told her I wasn't interested in rifles.

9

Q Why is that?

10

A Because I am not interested in them. They are

11

modern.

12

Q Beg your pardon?

13

A They are modern. I don't want them.

14

Q Is that the only reason?

15

A Well, I had my fill with rifles before. I had a little trouble with them and I -- that's the time in '61 and I paid for it. I got a suspended sentence, receiving stolen goods.

18

19

Q That had to do with rifles?

20

A Yes, it did.

21

Q Is it fair to say that your position is that you

22

did go to the house?

23

A Yes, I did.

24

Q You were offered goods for sale?

25

A What's that again?

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Q You were offered goods for sale?

A They asked me if I wanted to buy it; she did, right.

Q So that what Miss Tracy says and what Mr. Hanlon  
says --

A Not what Mr. Hanlon says, what Miss Tracy says.  
I didn't talk to them at all.

Q Let me rephrase my question.

The witness has -- all of those witnesses testified  
you were there, and that's true?

A That's true. I was there.

Q And all of those three witnesses testified that  
you were th4-re as a result of Miss Tracy's invitation to buy  
some goods.

A Right; correct.

Q And that your difference with their testimony is  
that you didn't buy goods?

A I didn't buy anything.

Q That's the only respect that you differ?

A Didn't buy anything.

Q Now, you indicated that you had conversations with  
Miss Tracy; is that correct?

A I did.

Q Did you have a conversation with her at Martin's  
Truck Stop where she works?

1  
2 A I went down there one time to have coffee when  
3 her uncle told me that my name was mentioned, and I talked  
4 to her and she said that they mentioned your name and a few  
5 other names. And I asked her why. At that time she didn't  
6 say.

7 Q You did have that conversation with her?

8 A Yes, I talked to her.

9 Q Did she deny the statement or deny the truth of  
10 the statement?

11 A I said no such thing.

12 Q Did you tell her that's what you were going to do,  
13 you were going to deny everything?

14 A No, I didn't say nothing like that.

15 Q However, that conversation did take place?

16 A I talked to her, sir; I talked to her a number of  
17 times.

18 Q Again, your basic difference is simply the contents  
19 of the conversation as opposed to the fact that it did take  
20 place?

21 A Yes, I talked to her.

22 Q How many times did you talk to her?

23 A A number of times I talked to Sheila. A lot of  
24 times she came on the job when her father was working there  
25 and I talked to her.

1

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Q How many times did you talk to her?about this case?

3

A About the case?

4

Q Yes.

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A The only time I talked to her about the case is when, after I got hold of my lawyer and he got all the statements and her name was mentioned, that's when I talked to her. I said, "Sheila", I asked her how come she made such a statement against me like that. She says, she said, what statement?

I says, "Well, my lawyer has a statement and it don't sound good."

She says, "I don't remember giving anybody a statement like that."

And I asked her if she would come down and see my lawyer and she says she would.

Q So the first time you talked to her she said she didn't even remember giving a statement?

A Not a statement like that, no.

Q Did she say what she did tell him?

A She said that I was up her house and she didn't mention anything about stolen goods is what she says in her statement.

Q That's the first time you talked to her?

A That was the fir-t time, right.

Q You took her down to Mr. Goldman's office?

1  
2 A I did.

3 Q Anyone else go with you?

4 A Her uncle.

5 Q He is your partner, isn't he?

6 A Well, not exactly partner. I let him run all the  
7 work and I give him a percentage of the money. The business  
8 is solely mine.

9 Q Is he associated with you in your side-line of  
10 buying commodities?

11 A No.

12 Q Does he know that you do that?

13 A Yes.

14 Q You were right there while Mr. Goldman interviewed  
15 Miss Tracy; is that correct?

16 A I was.

17 Q You heard everything she said?

18 A I heard everything she says.

19 Q Did you inquire of her about the other statements  
20 that were given in this case?

21 A What other statements?

22 Q By Mr. Hanlon and Mr. Gordon.

23 A She said she knew nothing about their statements.

24 Q The answer then is that you did inquire?

25 A Did she inquire?

1  
2 Q Did you ask her --

3 A No, I didn't.

4 Q Did you ask Miss Tracy?

5 A No, I didn't.

6 Q How did she provide you with the information that  
7 she didn't know anything about those statements?

8 A At the time she told Mike that my name was  
9 mentioned in the probe, in the grand jury or something and I  
10 wanted to know what it was about, that's all.

11 Q Did you ask her about the statements that were  
12 given by Mr. Hanlon and Mr. Gordon?

13 A Will you repeat that again? Did I ask her what?

14 Q Did you ever ask Miss Tracy about the statements  
15 that were given by Mr. Hanlon and Mr. Gordon?

16 A No.

17 Q You never did?

18 A No.

19 Q Is it your testimony and position then, that those  
20 three witnesses have come in here and totally fabricated the  
21 story about buying the guns?

22 A I don't know why.

23 Q I didn't ask you if you knew why. I asked you if  
24 that is in fact your position that they did.

25 A I still don't know why.

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Q That's not the question I am asking you, sir.

A It sounds like the question you're asking me.

Q What I am asking you is, and you may answer it yes or no, do you claim that all three of those witnesses lied about the fact that you purchased those guns?

A Yes.

MR. CLARK: I have no further questions.

MR. GOLDMAN: I have nothing further.

THE COURT: You are excused.

(Witness excused.)

M I C H A E L     D R U A N, called as a witness by the  
defendant, having first been duly sworn, testified as  
follows:

THE CLERK: State your name and address.

THE WITNESS: Michael Druan, 782 North Main Street,  
Waterbury.

DIRECT EXAMINATION

BY MR. GOLDMAN:

Q Mr. Druan, are you related to Sheila Tracy?

A Yes, I am.

Q How were you related?

A I am her uncle.

Q Keep your voice up, please.

A I am her uncle.

Q By marriage?

A By marriage, yes.

Q How long have you known her?

A Since she was an infant.

Q Do you know Pasquale Daversa?

A Yes, I do.

Q How long have you known him?

A All my life.

Q Do you work for him?

A Yes, I do.

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Q You are not a partner in that business?

A No.

Q You work in what -- what type of work do you do for him?

A Painting, siding, roofing.

Q Do you know whether or not he also runs an antique business?

A Yes, he does.

Q Did there come an occasion when you brought your niece to my office together with Mr. Daversa?

A Yes, there was.

Q Do you remember when that was? Was it some time in November of 1974?

A The 12th.

Q November 12th?

A I believe so.

Q And did Miss Tracy come to my office at your request or Mr. Daversa's request or under what circumstances?

A Well, he had asked her to come down because --

THE COURT: Who is he in that?

THE WITNESS: Mr. Daversa, because something about the statement, he told me about the statement she made and she thought there was some things in there that she did not say.

Q As a result of that she came to my office with you

1  
2 and Mr. Daversa?

3 A Right.

4 Q Anybody threaten her to come to the office?

5 A No.

6 Q Did anybody have to use any force or coercion of  
7 any type to get her to come there?

8 A No.

9 Q Did she come with you and Mr. Daversa voluntarily?

10 A Yes.

11 Q Were you present in my office with her and  
12 Mr. Daversa on that occasion?

13 A Yes, I was.

14 Q Were you able to hear the questions that I asked  
15 her and the answers that she gave to me?

16 A Yes.

17 Q Now, can you recall any of the things she told me  
18 on that occasion?

19 A Well, you asked her if she had written the statement  
20 and she said she didn't, it was not her handwriting. You asked  
21 her if she signed the statement and she said she did. You  
22 asked her if she read the statement and she said she didn't.

23 Q Was anything asked of her as to why she made the  
24 statement, why she signed the statement?

25 A She said that she was threatened with the loss of

her children by the prosecution, by the federal authorities.

Q Did she say how many times they talked to her?

A Well, she said they were bothering her quite a bit.

Q Did you have occasion to visit at her home?

A Yes, I did.

Q Did you ever see any federal agents at her house on any occasion that you were there?

A Yes, I did.

Q On how many occasions?

A Two occasions.

Q Did you ever have occasion to visit her where she worked?

A Yes.

Q Did you ever see any federal agents at the place where she worked?

A Yes, I did. Once.

Q One occasion. You say you have known Mr. Daversa for how many years?

A Almost all my life.

Q In the last ten years or so has he always worn glasses as far as you know?

A I have never seen him without them.

Q Did you ever talk to her outside of the occasion of my office, regarding the statement that she had made?

1  
2 A I didn't talk too much to her, no. I -- she seemed  
3 to imply sometimes that she had to make a statement.

4 Q Why?

5 A Well, she said she was afraid of being prosecuted.

6 Q Anything about her children?

7 A Well, she said the prosecution would result in  
8 arrest and arrest would result in her losing her children.

9 Q Did she ever make the statement to you that she  
10 would do anything not to lose her children?

11 A That's just what she said. She said that nothing  
12 or nobody is going to make my lose my children. Something  
13 to that effect.

14 Q Did you have occasion to visit at Mr. Daversa's  
15 home?

16 A Not very often. Once in a while.

17 Q Did you ever see any guns at his home at any time  
18 you were there?

19 A No.

20 Q Did you ever see any in his store?

21 A No.

22 MR. GOLDMAN: You may inquire.

23 CROSS-EXAMINATION

24 BY MR. CLARK:

25 Q Mr. Druan, you said Miss Tracy made a statement to

1  
2 you that nothing or no one will make her lose her children?

3 A Yes.

4 Q And that phrase would encompass, would it not,  
5 trying to protect Mr. Daversa?

6 MR. GOLDMAN: I didn't hear that question.

7 A I don't understand it.

8 Q You don't understand the question?

9 A No.

10 Q She said nothing or no one would make her lose her  
11 children; is that right?

12 A That's what she said, right.

13 Q That phrase encompasses trying to protect  
14 Mr. Daversa by giving false testimony on his behalf?

15 MR. GOLDMAN: I have to object to that question as  
16 to what I might mean, that's for the jury to determine.

17 THE COURT: Well, did she explain that statement in  
18 any way to you?

19 THE WITNESS: No.

20 THE COURT: Objection sustained.

21 Q I take it, Mr. Druan, that you have no knowledge  
22 about the facts of what happened on September 21st of your  
23 own knowledge; is that correct?

24 A No knowledge of what happened on September 21st?

25 Q That's right. 1973. You weren't at Sheila

1  
2 Tracy's house that day, were you?

3 A I don't believe so, no.

4 Q So you have no personal firsthand knowledge about  
5 Mr. Daversa's visit there; is that right?

6 A Well, I was with him when he visited her, if that's  
7 on September 21st.

8 Q Referring to the time that Mr. Daversa went to  
9 Miss Tracy's house to meet someone who had something for sale?

10 A Oh, no, no, I had no -- no.

11 Q So you know nothing about that of your own knowledge;  
12 is that correct?

13 A What?

14 Q You know nothing about that of your own knowledge,  
15 do you, sir?

16 A No, I don't.

17 Q You did accompany Miss Tracy to Mr. Goldman's office;  
18 is that correct?

19 A Yes, I did.

20 Q Why was it necessary for you to go?

21 A I don't know. I just, he just asked me to go  
22 down with him.

23 THE COURT: What was that?

24 THE WITNESS: Mr. Daversa asked me to go down with  
25 him.

## CHARGE OF THE COURT

1  
2  
3 NEWMAN, J.:

4 Ladies and gentlemen, you have heard all the  
5 evidence in the case and the summations of counsel.

6 Now it is my responsibility to give you the charge  
7 or the instructions of law that are to govern your consideration  
8 of this case.

9 Your task, of course, is to find the facts of the  
10 case. You are to recall the testimony and make up your own  
11 minds as to what you think actually occurred, what the facts are.

12 Your decision as to the facts must be based on the  
13 evidence, you can't go outside the evidence and resort to  
14 guesswork or conjecture or suspicion.

15 Once you have determined the facts, then you must  
16 apply the rules of law that I am about to explain to you.

17 If any of these rules of law are rules that you  
18 think ought to be changed, why, that's a task that higher  
19 courts can take care of, but your task today is to apply these  
20 rules of law to the facts that you find.

21 Now, I instruct you, you should not consider the  
22 Government in any different light than any other party to a  
23 lawsuit. Counsel for the Government is not to be considered  
24 in any different light than counsel for the defendant. The  
25 fact that the Government is a party entitles it to no greater

weight, and no lesser consideration than that accorded any other party to a lawsuit.

Now, in doing your task of fact-finding in general, you can consider two types of evidence. One is direct evidence. That means the evidence of what somebody saw or directly heard.

And the other is what is called circumstantial evidence. That is the proof of a chain of circumstances from which some other fact may be inferred.

Circumstantial evidence may be received and is entitled to such consideration as you may find it deserves, depending on the inferences you think it necessary and reasonable to draw from such evidence.

No greater degree of certainty is required when evidence is circumstantial than when it is direct, for in either case, you must be convinced beyond a reasonable doubt of the guilt of a defendant before there can be a conviction.

Now, of course, different inferences may be drawn from the facts and circumstances of a case. Prosecution asks you to draw one set of inferences; defendant asks you to draw another. It is for you to decide which common sense inferences you think you ought to draw from the facts that you find established.

If all the circumstances taken together are con-

1  
2 sistent with any reasonable hypothesis which includes the  
3 innocence of the defendant, then the Government has not proved  
4 its guilt beyond a reasonable doubt and you must acquit.

5 On the other hand, if you find that all of the  
6 circumstances established by the evidence, taken together,  
7 satisfy you beyond a reasonable doubt of the guilt of the  
8 defendant, then it is your duty to find him guilty.

9 Now, in this case as in any criminal case, the  
10 defendant is presumed to be innocent unless and until proven  
11 guilty beyond a reasonable doubt.

12 The presumption of innocence was with this  
13 defendant when he was first presented for trial in this case;  
14 it continues with him throughout the trial. As far as you are  
15 concerned, he is innocent and he continues innocent unless  
16 and until such time as all the evidence produced in the trial  
17 considered in light of these instructions of law, satisfies  
18 you beyond a reasonable doubt that he is guilty.

19 The burden of proving the defendant guilty of  
20 each of the crimes with which he is charged is upon the  
21 Government. The defendant does not have to prove his  
22 innocence. This means that before you may find the defendant  
23 guilty of any count, the Government must prove to you beyond  
24 a reasonable doubt each element necessary to constitute the  
25 crime charged.

Whether that burden of proof resting on the Government has been sustained depends not on the number of witnesses or on the quantity of their testimony, but on the nature and quality of their testimony.

Now, a reasonable doubt means, as the phrase suggests, a doubt founded upon reason. It is a doubt as will be entertained by a reasonable person after all the evidence in the case is carefully analyzed, compared and weighed.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is on the Government to prove the defendant guilty beyond a reasonable doubt of every element of each crime charged, a defendant has the right to rely upon a failure of the prosecution to establish such proof.

However, absolute or mathematical certainty is not required. But there must be such certainty as satisfies your reason and judgment and such that you feel consciously bound to act upon. It is not a fanciful doubt or a whimsical or capricious doubt, for anything related to human affairs and depending on human testimony is open to some possible or imaginary doubt.

A reasonable doubt is such doubt as would cause a prudent person to hesitate before acting in matters of importance to himself or herself.

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2 So if the evidence warrants in your judgment the  
3 conclusion that the defendant is guilty so as to exclude  
4 every other reasonable conclusion, you should declare him to  
5 be guilty.

6 On the other hand, if all the evidence, if on  
7 all the evidence you have a reasonable doubt as to the guilt  
8 of the defendant, you must find him not guilty.

9 Now, the charges in this case are set forth in an  
10 indictment and you will have the copy of the indictment with  
11 you in the jury room. Let me at this point mention the function  
12 of an indictment. An indictment by a grand jury is simply the  
13 formal method of accusing a defendant of certain crimes. It  
14 defines the crimes charged and the manner of their alleged  
15 accomplishment. The indictment is without bearing or  
16 significance in your consideration of the case and it is to  
17 be accorded no weight by you in determining the guilt or  
18 innocence of the defendant.

19 By his plea of not guilty, the defendant has  
20 denied each and every allegation set forth in the indictment.

21 Now, the charges are three in number. And let me  
22 first say that you must give separate consideration to each  
23 charge. They are different violations set forth in thee  
24 different counts and your verdict on any one count should not  
25 influence your verdict on any other count.

1  
2 Let me take them up in order. The first count  
3 charges a violation having to do with the receipt of a weapon  
4 by a person who has been convicted previously of a felony.

5 I will simply read the statute to you. It's very  
6 short.

7 It says, "Any person who has been convicted by a  
8 court of the United States or of a state of a felony and who  
9 receives possession or transports in commerce or effecting  
10 commerce any firearm, shall be punished."

11 Count 1 of the indictment charges that the defendant  
12 having been convicted in 1971 in the Superior Court of  
13 Connecticut of a felony did on September 21, 1973 knowingly  
14 receive in commerce more than one firearm.

15 Now, the elements of that offense are these:  
16 first, that the defendant knowingly possessed a firearm on or  
17 about that date; two, that the firearm had moved or had been  
18 transported in interstate commerce, and three, that the  
19 defendant had been previously convicted of a felony by a court  
20 of a state.

21 Now, as to that third element there is no dispute  
22 in this case that the defendant was previously convicted of a  
23 state felony and as I mentioned to you earlier, that fact may  
24 be considered as an element of this offense, and the fact of  
25 a prior conviction can also be considered as bearing on the

1  
2 credibility of a person who testifies, but let me emphasize  
3 that the fact of a prior conviction cannot be considered for  
4 any other purpose; specifically, it can not be considered as  
5 simply bearing on whether this person is of good or bad  
6 character or a good person or a bad person or any generalized  
7 consideration.

8 Now, the term "firearm" means -- I will read you  
9 that definition, too, so there will be no ambiguity about it.  
10 It means any weapon which will or is designed to or may readily  
11 be converted to expel a projectile by the action of an explosive.

12 It is part of the Government's case to persuade  
13 you beyond a reasonable doubt that there was a firearm within  
14 the meaning of that statute involved in this case.

15 If you find that an item was possessed by the  
16 defendant, but you're not satisfied beyond a reasonable doubt  
17 that it really was a firearm, that is, that it was a weapon  
18 which is or is designed to or may readily be converted to  
19 expel a projectile by the action of an explosive, then you  
20 would not be guilty of possessing a firearm.

21 Whether there was a firearm is a matter of fact  
22 for you to determine, based on all of the evidence in the  
23 case and all of the circumstances that you find to be  
24 established.

25 Possession simply means in this case physically

1  
2 taking possession of the item itself. The Government says that  
3 the item was actually taken into the possession of the  
4 defendant on the 21st, on the occasion of the completed trip  
5 that the witness Gordon testified about, and, of course, the  
6 defendant says that that's not so, that he did not take  
7 possession of it. So that obviously is a disputed issue of  
8 fact for you to decide.

9 His possession must be knowing possession. An act  
10 is done knowingly if it is done purposely and knowingly and  
11 not because of any mistake or inadvertence or accident.

12 And the second element is that the firearm have  
13 traveled or been transported in interstate commerce. Property  
14 has moved in interstate commerce if it originates in one state,  
15 passes through or ends up in another state.

16 The Government's claim is that the items in this  
17 case were brought from Pennsylvania to Connecticut.

18 So that's what Count 1 is all about.

19 Now, Count 2 has to do with the causing of the  
20 transportation of the firearm from Pennsylvania to Connecticut.  
21 And that charge, that Count 2 charges a violation of a  
22 different statute and I will read that one to you.

23 The statute reads: It shall be unlawful for any  
24 person to transport in interstate commerce any stolen firearm,  
25 knowing or having reasonable cause to believe that the firearm

1  
2 was stolen.

3 Count 2 charges that the defendant did knowingly  
4 transport in interstate commerce from Pennsylvania to Connecticut  
5 stolen firearms, knowing and having reasonable cause to believe  
6 that the firearms were stolen.

7 The elements of Count 2 are three in number:

8 First, that the defendant did transport a firearm  
9 in interstate commerce; second, that the firearm was stolen;  
10 and third, that the defendant knew or had reasonable cause to  
11 believe that the firearm was stolen.

12 Now, Count 2, which charges that the defendant  
13 caused the transportation also charges in the same count a  
14 violation of a different statute.

15 Let me read that to you and you will see the  
16 relationship of these two very quickly. The other statute in  
17 Count 2 says:

18 "Whoever commits an offense against the United  
19 States or aids, abets, counsels, commands, induces or procures  
20 its commission is punishable as a principal."

21 The Government's theory of the second count is  
22 very simply that Mr. Gordon actually did the transporting of  
23 the firearm on September 25th when he was on his way back  
24 from Pennsylvania to Connecticut, but the charge against  
25 Mr. Daversa is that Mr. Daversa aided, abetted, or procured the

1  
2 the commission of that offense by what happened in Waterbury  
3 the previous four or five days, approximately four or five  
4 days back, September 21st.

5 So, in considering Count 2, you would have to  
6 consider whether or not there was the transportation of a  
7 firearm in interstate commerce, whether the firearm was stolen,  
8 whether the defendant in this case, Daversa, knew that it had  
9 been stolen, and whether or not the defendant did or did not  
10 aid, abet or induce the commission of that interstate trans-  
11 portation of a stolen firearm.

12 Now, a defendant does not have to personally do  
13 every act that constitutes an offense. In other words, in  
14 this case, it is not the Government's claim that Mr. Daversa  
15 carried the gun from Pennsylvania to Connecticut. Their  
16 claim is that Mr. Gordon carried it from Pennsylvania to  
17 Connecticut, but their claim as to Mr. Daversa's guilt is that  
18 at the meeting in Waterbury, things were said by which  
19 Mr. Daversa aided or abetted or induced Mr. Gordon to come  
20 back to Connecticut with some stolen firearms.

21 Now, even if you conclude that there was something  
22 said about weapons at that house at Waterbury, you can't just  
23 go from there and say, well, he must be guilty of aiding and  
24 abetting this interstate transportation count. You would have  
25 to find that there was an aiding and abetting of the interstate

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1 transportation of that weapon.

2  
3 Mr. Daversa, of course, says that nothing was said  
4 by him about any weapons or any future deliveries or anything  
5 like that.

6 The Government's evidence is that there was some  
7 conversation that Mr. Daversa indicated he would be interested  
8 in more guns, that he would pay for them and they base their  
9 claim that those conversations were enough to be an aiding and  
10 abetting of Mr. Gordon in bringing more guns back from  
11 Pennsylvania to Connecticut.

12 If you find those conversations occurred, as the  
13 Government's witnesses said they did, you would be entitled to  
14 find that the elements of Count 2 had been established, although  
15 you would not be required to, it would still be a matter of  
16 fact for you to decide whether what Mr. Daversa did was a  
17 sufficient aiding and abetting of Mr. Gordon to constitute a  
18 violation of the interstate transportation statute.

19 Now, a person who wilfully participated in the  
20 commission of a crime may be found guilty of that offense.  
21 Participation is wilful if it is done voluntarily and inten-  
22 tionally and with the specific intent to do something the law  
23 forbids. That is to say, with bad purpose, either to disobey  
24 or disregard the requirements of the law.

25 Now, there is a third count. And the third count

225a

1  
2 charges that the defendant and David Gordon entered into a  
3 conspiracy to violate the same statute which forms the subject  
4 matter of Count 2, namely, the interstate transportation of  
5 a stolen firearm.

6 The elements of Count 3 are these:

7 First, that the conspiracy described in the  
8 indictment between Mr. Daversa and Mr. Gordon was wilfully  
9 formed and was existing at or about the time alleged. Secondly,  
10 that the accused, Mr. Daversa, wilfully joined that conspiracy,  
11 that is, became a member of it. Third, that thereafter one of  
12 the conspirators committed at least one overt act in furtherance  
13 of the conspiracy; and four, that that act was done -- was  
14 knowingly done in furtherance of the conspiracy.

15 Now, let me first deal with the overt act. The  
16 Government alleges in the indictment that the overt act was  
17 Mr. Gordon's transportation of stolen firearms from  
18 Pennsylvania to Connecticut.

19 It is not necessary that the defendant Daversa  
20 commit the overt act in furtherance of the conspiracy. That  
21 can be done by somebody else, and in this case, the Government  
22 alleges Mr. Gordon committed the overt act.

23 But before there can be any conviction on Count 3,  
24 you must be satisfied that all the elements of Count 3, as I  
25 have explained them, are established, and that includes that

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2 there was a conspiracy and again, let me emphasize, it isn't  
3 enough that Mr. Daversa and Mr. Gordon said something about  
4 firearms and from there just jump to the conclusion that there  
5 is a conspiracy.

6 So let me tell you a little bit about what a  
7 conspiracy is. Conspiracy is a combination of two or more  
8 persons to accomplish some unlawful purpose. Conspiracy is a  
9 kind of partnership in a criminal purpose. The gist of the  
10 offense is that the combination or agreement to disobey the  
11 law, the fact that people have associated together, may have  
12 met together, in and of itself is not sufficient to establish  
13 a conspiracy.

14 However, the evidence need not show that the  
15 members entered into any express or formal agreement, or that  
16 they directly either in words or writing stated between them-  
17 selves precisely what the object or the whole purpose of the  
18 conspiracy would be or the details.

19 What the evidence must show beyond a reasonable  
20 doubt is that the members in some way or some manner, positively  
21 or tacitly came to a mutual understanding to try to accomplish  
22 an unlawful purpose.

23 Now, again, there is a dispute as to what conver-  
24 sations occurred at the house on about September 21st.  
25 Obviously, if you agree with the defendant's account, there was

1  
2 no conspiracy. If you find that the conversations happened as  
3 the Government's witnesses say, you would be entitled to find  
4 that a conspiracy was formed on that occasion between  
5 Mr. Daversa and Mr. Gordon, but you're not required to, and  
6 again, it is not simply because there was some conversation  
7 that you can conclude that there was a conspiracy, but if you  
8 think that the conversations are such that Mr. Daversa and  
9 Mr. Gordon did enter into some agreement, that for Mr. Gordon  
10 to return from Pennsylvania to Connecticut with stolen firearms  
11 and that Mr. DAVersa wilfully became a member of that  
12 conspiracy, associated himself with it, had some stake in the  
13 outcome of that venture, then you would be entitled to find  
14 that there was a conspiracy and that he was part of it.

15 As to each of these offenses you must be satisfied  
16 that each element of the offense was established beyond a  
17 reasonable doubt before there can be a conviction on any one  
18 count.

19 Now, in considering whether the elements of those  
20 offenses were established, obviously an important thing you're  
21 going to have to do is to consider the credibility of the  
22 witnesses that you have heard.

23 Let me point out certain considerations that you  
24 may have in mind as you approach your task of deciding  
25 questions of credibility or the believability of the witnesses.

1  
2 You can consider the appearance of that witness on the witness  
3 stand, try to size the witness up, did he or she appear to be  
4 telling the truth? Did he appear to be honest, intelligent?  
5 Did he appear to be a person who could have observed accurately  
6 what he is telling you about, who would be likely to have  
7 remembered it accurately and who was capable of reporting it  
8 to you accurately?

9 You can consider whether the testimony that  
10 witness gave us is plausible. Does it ring true or are there  
11 inconsistencies in it? How does it fit in with other evidence  
12 in the case which you do believe and other facts which you  
13 have found to have existed?

14 In this case there has been a claim that witnesses  
15 have on prior occasions said something different than their  
16 testimony at trial and you're entitled to consider if you  
17 think a prior inconsistent statement was made by a witness,  
18 you can consider that in deciding whether or not to believe  
19 the testimony given at trial.

20 If you find that a witness has been deliberately  
21 falsifying on any significant point, you can take that into  
22 consideration in deciding whether the witness has falsified  
23 on other points.

24 Simply because a witness has not repeated one  
25 fact to you accurately does not necessarily follow the witness

1  
2 is wrong on every other point. The witness may be honest and  
3 mistaken on one point and entirely accurate on others. A  
4 witness might even deliberately falsify on one point and be  
5 accurate on others, but if you find that a witness has  
6 deliberately lied on one material subject, it is only natural  
7 you would be suspicious of that person's testimony and under  
8 those circumstances, you're entitled to disbelieve all of that  
9 person's testimony.

10 Another question you may want to consider is  
11 whether a person has some bias or interest in the outcome of  
12 the case, and if so, whether the witness has permitted that  
13 bias or interest to color his or her testimony.

14 It doesn't follow simply because there may be some  
15 bias or interest in the outcome that a witness' testimony is  
16 to be believed. There are many people no matter what their  
17 interest in the outcome of a case, would not testify falsely,  
18 but a juror should always bear in mind that if a witness has a  
19 bias or interest in the outcome of the case, that bias or  
20 interest offers something of a temptation to shade testimony  
21 in accordance with that bias, whether it be to gain some  
22 advantage for the witness or to do some damage to someone else.

23 In this case there has been evidence that as to  
24 some of the prosecution witnesses, they were not prosecuted  
25 on charges on which they might have been prosecuted or were

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2 offered promises of immunity or things of that sort. And  
3 that's a factor that you are entitled to consider in deciding  
4 the credibility of witnesses where that occurred.

5 Let me add a special rule that applies to this  
6 case. The witness Gordon and Miss Tracy, and I will include  
7 Mr. Hanlon into this, too, are properly to be considered  
8 accomplices in this criminal activity. Mr. Gordon by his own  
9 admission brought the weapons up from Pennsylvania, and he  
10 admitted he stole them. Miss Tracy's testimony is that she  
11 knew they were stolen and was arranging for their disposition.  
12 And Mr. Hanlon, while he testified that there came a point  
13 where he decided to turn Mr. Gordon in, but at an earlier  
14 point he testified that he was asked to and did go outside to  
15 sort of act as a lookout to be sure that nobody was on the  
16 scene, so all three of them really can be considered accomplices  
17 in this activity.

18 Now, where there is accomplice testimony against  
19 a defendant, a juror ought to consider that testimony with  
20 some caution and to weigh the testimony of an accomplice with  
21 some scepticism and look at it with great care. I don't mean  
22 to suggest that the testimony of accomplices can not support  
23 a conviction. Sometimes accomplices are the only people who  
24 know that somebody else committed a crime and their testimony,  
25 if it is found to be credible, is a proper basis for a cor-

1  
2 viction, but I simply point out that where testimony comes from  
3 accomplices, it ought to be viewed with scepticism and caution.

4 And one final point about the credibility of  
5 the witness, is that, and I may have mentioned this, a witness  
6 can have his credibility impeached by the fact of a prior  
7 conviction.

8 So in general, you're simply to bring to bear in  
9 your assessment of credibility of these witnesses the same  
10 common sense and sound judgment that you would apply to  
11 questions of veracity that present themselves in your daily  
12 lives on important matters.

13 A defendant need not testify, but he may, and if he  
14 does, as he did in this case, his testimony is to be judged  
15 by the same criteria that you would judge the testimony of  
16 any other witnesses.

17 So, in conclusion, I impress upon you that you're  
18 duty-bound as jurors to apply the law, as I have explained it  
19 to you, to the facts of this case as you find them and if  
20 counsel refer to any facts or I refer to any facts and your  
21 recollection is different than ours, your recollection controls.

22 When you take this case to the jury room, select  
23 one of your number as the foreman or forelady, determine the  
24 facts on the basis of the evidence we have had, apply the law  
25 as I have outlined it to you, and then render your verdicts

1  
2 fairly, uprightly and without a scintilla of prejudice.

3 When you reach a verdict it must be unanimous.  
4 It is the duty of each juror to discuss and consider the  
5 opinions of the other jurors. Despite that, in the last  
6 analysis, it is your individual duty to make up your own mind,  
7 and to decide the case upon your own individual judgment and  
8 consideration.

9 I will ask you to retire now and when you're in  
10 the jury room, you can proceed to select a foreman or forelady,  
11 but wait just a moment before beginning your deliberations,  
12 until the clerk brings a copy of the indictment and exhibits  
13 and then proceed to your deliberation.

14 Let me emphasize what I said before about the  
15 timing. We are now at 4:25 and I am going to leave the  
16 scheduling up to you. If there are some among you for whom  
17 getting home or starting home around 5:00 is important, I  
18 hope you will make that known to your fellow jurors and that  
19 you will be sensitive to that request. If you want to  
20 deliberate through until around 6:00, that will be all right.  
21 If you want to stay into the evening, that's all right, and  
22 have supper brought in, or if you want to adjourn at some  
23 appropriate time and come back tomorrow at 10:00 o'clock,  
24 that's perfectly all right.

25 In short, don't let the clock have any bearing on

1  
2 your consideration of this case. Simply let me know later on  
3 what your preferences are in the matter of scheduling.

4 The jury is excused.

5 (Jury excused at 4:25 p.m.)

6 THE COURT: Mr. Clark, any exceptions or further  
7 requests to charge?

8 MR. CLARK: Yes, your Honor. With respect to the  
9 first count, when your Honor was describing the elements to  
10 them, I believe that you used the term "possess" and "receive"  
11 interchangeably in discussing those elements with the jury,  
12 and the Government has charged receipt, and at several points  
13 I believe your Honor indicated that we talked about a possession.

14 THE COURT: Well, as to Count 1?

15 MR. CLARK: Yes, your Honor.

16 THE COURT: I did that because that was the way  
17 you had --

18 MR. CLARK: I perhaps misled you in the request  
19 to charge and I apologize for that.

20 THE COURT: The indictment calls it receiving.

21 MR. CLARK: Yes, your Honor.

22 THE COURT: I will hear Mr. Goldman on that, too.  
23 I am not sure it's worth making that point of a distinction.  
24 There is no claim here of constructive possession or constructive  
25 receipt or anything like that. If he took that weapon away,

1  
2 which is the Government's evidence, he both possessed it and  
3 received it and if he didn't, he did neither.

4 MR. CLARK: I feel that way.

5 THE COURT: What's your view on that, Mr. Goldman?

6 MR. GOLDMAN: I would prefer to leave it the way  
7 it is rather than bring them back and make a correction,  
8 because it only puts additional emphasis on it. I'd just as  
9 soon the jury consider it the way your Honor gave the charge.

10 THE COURT: All right. It's really hard for me to  
11 see on this evidence and the nature of the claims here how  
12 if there is any variance it could possibly be material, because  
13 he either did both receive and possess it or he did neither.

14 MR. CLARK: I feel that way, your Honor.

15 With respect to Count 2, this occurred to me during  
16 the course of the charge. Again, we perhaps could have  
17 caught this prior to our charge, but the count states that he  
18 is charged with aiding and abetting and shipment in interstate  
19 commerce of stolen firearms and ammunition.

20 Now, while there was ammunition in the car, the  
21 Government, I don't believe, presented evidence to that  
22 effect. We just talked about the firearms and introduced the  
23 crate of firearms.

24 THE COURT: That's why when I told them what the  
25 violation was and what they had to find, I only referred to

1  
2 firearms and I did not instruct that ammunition would make  
3 out this violation.

4 MR. CLARK: I was going to request they be advised  
5 they could find a conviction even though only firearms were  
6 proved.

7 THE COURT: I did it on the way. They could find  
8 a conviction only if firearms are proved, because I am not  
9 sure there was evidence that ammunition was stolen.

10 MR. CLARK: That's right.

11 MR. GOLDMAN: I have no -- nothing insofar as the  
12 charge or exceptions to the charge, but I would again only  
13 call the Court's attention to the hour now and would request  
14 that your Honor instruct them perhaps, if your Honor could  
15 see fit to do so, not to begin deliberations until tomorrow  
16 morning. I still feel that there is pressure at this late  
17 hour to try to see as much as they can do and get as much as  
18 they can done and in spite of the cautionary instructions which  
19 your Honor gave to them, my feeling is that rather than come  
20 back tomorrow they would rather get rid of it tonight, they  
21 might feel, and on that basis I renew that request.

22 THE COURT: Well, I am not going to do that. I  
23 tried to make it as clear as I could to them that the clock is  
24 not to have a bearing and I really don't know which way they  
25 may get annoyed. There is also the risk that if they are told

1  
2 to go home and have to come back another day and not be able  
3 to give it any deliberation, that may annoy them.

4 I really think the fairest way is to do wht I did,  
5 to tell them they can start, but that they ought to suspend  
6 at a convenient hour if that's their preference. Of course,  
7 they don't face any threat of sequestration or anything like  
8 that, so I think they have it on fair terms.

9 Have counsel inspected the retyped indictment?

10 Are the exhibits in order?

11 I will ask the clerk to take the indictments and  
12 exhibits to the jury and we will be in recess.

13 (Recess.)

14 (Jury present; 5:10 p.m.)

15 THE COURT: Ladies and gentlemen, I have your  
16 note which reads as follows:

17 "We would like to continue tomorrow morning and  
18 would like to leave at 5:00 today. Thank you," signed by  
19 Mr. St. Louis, who, I take it, is the foreman.

20 As I indicated, I will honor your request in the  
21 matter of scheduling and I will do that.

22 Before adjourning for the evening let me say this  
23 to you. It sometimes happens when this stage of a criminal  
24 case is reached, namely, the deliberation stage by the jury,  
25 that a jury is physically kept together. You probably have

1  
2 read about that in some cases. It's called sequestered, and  
3 they are physically taken to a hotel and locked up and not  
4 allowed to see friends or relatives and things of that sort.  
5 I am not going to do that, but I mention that procedure so  
6 that when you do go home this evening, as far as your connection  
7 with this case is concerned, you will consider yourselves  
8 sequestered. There is always a temptation at any stage of the  
9 case for someone who knows you're on a jury to inquire how  
10 is it going and perhaps wants to offer a friendly suggestion  
11 to you. It would be most inappropriate for that to happen.  
12 It would be totally unfair to the parties in this case and  
13 to your fellow jurors. You twelve are the only people that  
14 have heard the evidence and you twelve are the only people  
15 who are going to decide this case.

16           So please don't discuss the case with anyone at  
17 home, don't permit them to draw you out about it, just  
18 consider yourselves as if you had been sent to a separate  
19 hotel where the food probably wouldn't be as good as the  
20 meal you will have at home tonight, but take that obligation  
21 not to discuss the case quite seriously in fairness to the  
22 parties and to your fellow jurors.

23           All right, then, you can leave now. Return  
24 tomorrow at 10:00 o'clock. When you do come in, check with  
25 the clerk as you usually do and go right to the jury room, and

1  
2 please don't resume your deliberations until all twelve of you  
3 are there, because I don't want a partial group to begin  
4 deliberating. Wait until all twelve are there, so all twelve  
5 hear everything that is said among the group and then when you  
6 have reassembled and resume your deliberations and then let us  
7 know how you're coming along.

8 The jury may be excused then.

9 (Jury excused at 5:10 p.m.)

10 THE COURT: We will adjourn until tomorrow.)

11 (Court adjourned at 5:10 p.m.)

12 (The jury returned a verdict of guilty on all three  
13 counts, and was polled on April 17, 1975.)

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JUDGMENT

The defendant is committed to the Attorney-General or his duly authorized representative for imprisonment for a period of One Year on Count 2 in Criminal No. N-74-63 and for one year on Count One in Criminal No. N-74-81 to run concurrent with each other. Imposition of sentence is suspended on Count One in N-74-63 and the defendant is placed on probation for a period of 5 years, to commence after discharge from incarceration on Count one in N-74-81 and Count 2 in N-74-63.

NOTICE OF APPEAL

NAME AND ADDRESS OF APPELLANT:

Pasquale Daversa  
1668 North Main Street  
Waterbury, Connecticut

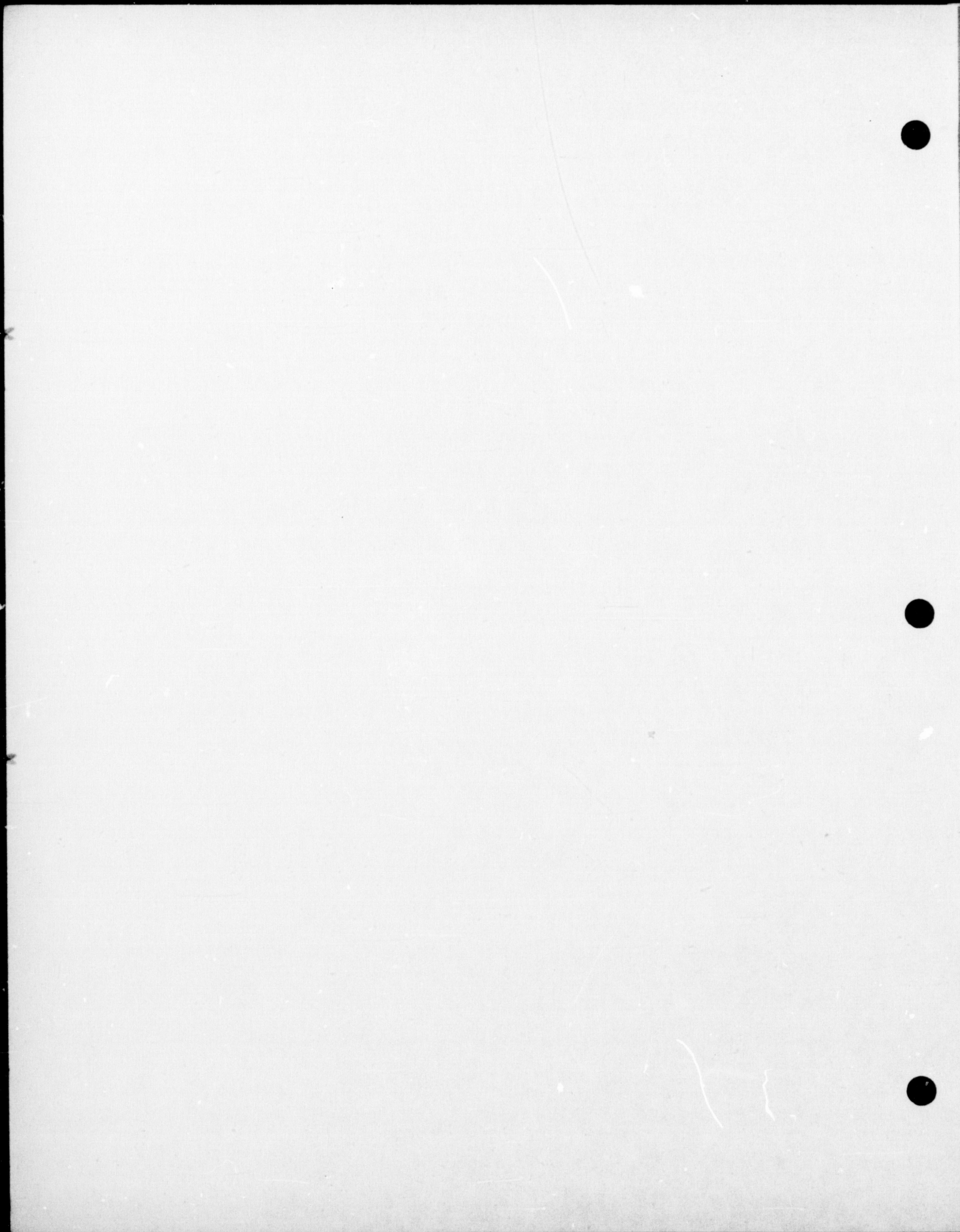
NAME AND ADDRESS OF APPELLANT'S ATTORNEY:

David W. Goldman, Esq.  
129 Church Street  
New Haven, Connecticut

OFFENSES:

Title 18 U.S. Code Appendix, Section 1202(a) (1)  
Title 18 U.S. Code Sections 922 ( ) and 2(a)  
Title 18 U.S. Code Section 371

On May 12, 1975, the defendant, having been convicted and found guilty as a convicted felon, receiving in commerce more than one (1) firearm; and knowingly transporting and shipping in interstate commerce stolen firearms and ammunition; and conspiracy to knowingly transport in interstate commerce, stolen firearms, was sentenced as follows:



Sentenced to the custody of the Attorney General or his duly authorized representative for imprisonment for 1 year on Counts II and III to run concurrently. Imposition of sentence on Count I is suspended and the defendant is placed on probation for 5 years.

I, Pasquale Daversa hereby appeal to the United States Court of Appeals for the Second Circuit from the above stated judgment.